

BULKY DOCUMENT

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Proceeding No.	91207895
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Filing Date	12/23/2015
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Part	1 of	1
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91207895

December 23, 2015

BY HAND DELIVERY

Trademark Trial and Appeal Board
c/o The Trademark Assistance Center
Madison East, Concourse Level Room C55
600 Dulany Street
Alexandria, VA 22314

Re: *Hokie Objective Onomastics Society LLC v. Virginia Polytechnic
Institute and State University*
Opposition No. 91207895 // Serial No.: 85-531,923

Ladies and Gentlemen:

Enclosed for filing with the Trademark Trial and Appeal Board please find the following documents:

- Motion To Strike Opposer's First, Third And Fourth Notices Of Reliance Or In The Alternative Motion Under Fed. R. Civ. P. 36(B) To Withdraw The Admissions (13 pgs.);
- Copy of the Declaration of Robert S. Weisbein (4 pgs.);
- Exhibits 1 to 9 (195 pgs.)

Please date-stamp and return the enclosed self-addressed, prepaid postcard and do not hesitate to contact me with any questions concerning the enclosed documents. Thank you for your courtesies.

Sincerely yours,



Robert S. Weisbein

**TRADEMARK PROCESS
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**US PATENT &
TRADEMARK OFFICE**



12-23-2015

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RSW:ws
Enclosures

cc: Ms. Sky G. Schoepfer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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HOKIE OBJECTIVE ONOMASTICS	:	
SOCIETY LLC,	:	
	:	
Opposer,	:	
	:	Opposition No. 91207895
v.	:	
	:	Serial No.: 85-531,923
VIRGINIA POLYTECHNIC INSTITUTE	:	
AND STATE UNIVERSITY,	:	
	:	
Applicant.	:	
-----	x	

**APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE
UNIVERSITY’S MOTION TO STRIKE OPPOSER HOKIE OBJECTIVE
ONOMASTICS SOCIETY LLC’S FIRST, THIRD AND FOURTH
NOTICES OF RELIANCE OR IN THE ALTERNATIVE MOTION
UNDER FED. R. CIV. P. 36(B) TO WITHDRAW THE ADMISSIONS**

Virginia Polytechnic Institute and State University (“Virginia Tech”) hereby moves to strike the First, Third and Fourth Notices of Reliance filed by Opposer Hokie Objective Onomastic Society LLC (“HOOS”), attaching Opposer’s first, third and fourth requests for admission, respectively, which HOOS claims are admitted because Virginia Tech failed to serve timely responses. Virginia Tech believes its answers to the requests for admission were timely served and therefore HOOS’s reliance on them as being admitted under Fed. R. Civ. P 36(a)(3) is improper. Alternatively, Virginia Tech moves under Rule 36(b) of the Federal Rules of Civil Procedure for the admissions to be withdrawn and for its previously served response to be deemed to have been served timely.

I. PRELIMINARY STATEMENT

This discovery dispute addresses the question of whether or not Virginia Tech’s responses to HOOS’s requests for admission were timely served. HOOS contends that Virginia

Tech's responses were filed late. It, therefore, filed notices of reliance attaching the requests as having been admitted. Virginia Tech calculated the due dates for its responses from the date it filed its motion for summary judgment and requested the proceedings be suspended.¹ However, HOOS calculated the response dates from the date of the Board's order of suspension. Thus, the parties' respective calculations differ by a matter of a few days.

Rule 510.03(a) of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") states that "when issuing its suspension order, the Board ordinarily treats the proceeding *as if it had been suspended as of the filing date of the potentially dispositive motion*. On a case-by-case basis, the Board may find that the filing of a potentially dispositive motion provides a party with good cause for not complying with an otherwise outstanding obligation, *for example, responding to discovery requests*." (Emphasis added). Consistent with the language of TBMP 510.03(a) and the request in each of Virginia Tech's motions for summary judgment for the Board to extend the time for Virginia Tech to respond to HOOS's outstanding discovery requests, Virginia Tech calculated the date its responses were due from the date it filed its motions for summary judgment. Consequently, its responses to HOOS's requests for admissions were timely served. However, even if served late, Virginia Tech has shown good cause for their late service and, as such, the admissions should be waived and HOOS's notices of reliance should be stricken.

Alternatively, Virginia Tech's motion under Fed. R. Civ. P. 36(b) should be granted because (1) the merits of the case will be subserved by allowing withdrawal of the admissions

¹ In its motion for summary judgment filed on October 28, 2013, Virginia Tech's motion requested that the proceedings be suspended and that Applicant's time to respond to Opposer's outstanding discovery responses be extended accordingly. *See* Virginia Tech Brief at pp. 11 and 12. In its motion for summary judgment filed on October 21, 2014, Virginia Tech not only requested that the proceedings be suspended, but also that its "time to respond to Hokie Society's third and fourth set[s] of discovery requests be extended by thirty days." *See* Virginia Tech Brief at p. 21. Neither of the Board's suspension orders addressed the time within which Virginia Tech was to respond to HOOS's discovery requests.

and the acceptance of Virginia Tech's response and (2) HOOS will not be prejudiced by allowing the withdrawal of the admissions.

This case has been hotly contested from the outset. Virginia Tech has made three dispositive motions challenging HOOS's standing to commence this proceeding. Furthermore, the parties exchanged extensive written discovery including, Virginia Tech's response to HOOS's requests for admission, produced documents, and Virginia Tech took the discovery deposition of HOOS's sole member and manager, James Creekmore. Having been served with Virginia Tech's response to its requests for admissions, HOOS was well aware that Virginia Tech took issue with the vast majority of its requests. Indeed, in its answer to the amended notice of opposition, Virginia Tech denied the salient allegations relating to the facts at issue in the requests for admission, namely, the purported misuse of the ® registration symbol and the purported false date of first use of the mark HOKIE. Thus, it should come as no surprise to HOOS that these facts are in dispute. Nevertheless, HOOS, during its trial period, took the position for the first time that Virginia Tech's responses were not timely served. This procedural gamble is at odds with the plain language of TBMP Rule 510.03(a). Under the circumstances, HOOS cannot now be heard to complain that it will be prejudiced if the admissions are deemed waived.

II. STATEMENT OF FACTS

On September 30, 2013, HOOS served by first class U.S. Mail Opposer's First Set of Discovery Requests which consisted of 85 requests for admission, one interrogatory and one request for production of documents and things. *See* Exhibit 1 to the Declaration of Robert S. Weisbein. The requests for admission all related to Virginia Tech's first use of the mark HOKIE primarily for goods and services having nothing to do with the educational and entertainment

services covered by the application in dispute in this proceeding. In any event, Virginia Tech's responses were due on November 5, 2013.

On October 28, 2013, eight days before Virginia Tech's responses to HOOS's First Set of Discovery Requests were due, Virginia Tech filed a motion for summary judgment (Dkt. No. 12) on the grounds that HOOS was estopped from bringing the within proceeding because it was the alter ego of James Creekmore, who was prohibited from challenging the use and registration of the HOKIE mark by reason of a waiver and release provision contained in a settlement agreement signed by Mr. Creekmore's client in the trademark infringement litigation brought by Virginia Tech against Hokie Real Estate, Inc. ("HRE").² The waiver and release contained language prohibiting HRE *and its attorneys* from challenging or interfering with Virginia Tech's use and registration of the HOKIE mark.

On November 5, 2013, the Board entered its Order suspending the proceedings. (Dkt. No. 14). On January 8, 2014, the Board issued its Order, denying Virginia Tech's motion for summary judgment and resuming the proceedings. (Dkt. No. 18). Relying on TBMP Rule 510.03(a), Virginia Tech calculated the due date for it to respond to HOOS's outstanding discovery from the filing date of its motion. Based on that calculation, Virginia Tech's response would have been due on **January 16, 2014**, eight days after the resumption of the proceedings. HOOS, however, calculated the date due from the issuance of the Board's November 5th order, making Virginia Tech's responses due on **January 9, 2014**, one day after the resumption of the proceedings. Virginia Tech served its responses on January 15, 2014, within the time to respond based on its calculation, but six days late based on HOOS's calculation. A copy of Virginia Tech's responses to HOOS's First Set of Discovery Requests are attached as Exhibit 2 to the Weisbein Declaration.

² *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010).

On September 18, 2014, HOOS served its Third and Fourth Sets of Discovery Requests by first class U.S. Mail. The Third Set was comprised of twelve requests for admission, one interrogatory and one document request, all directed toward the issue of Virginia Tech's purported misuse of the ® registration symbol on licensed goods bearing the HOKIE trademark. The Fourth Set was comprised of three requests for admission and one interrogatory directed toward the authentication of documents produced by Virginia Tech in the HRE litigation, which documents purportedly related to the first use of the HOKIE mark. Copies of HOOS's Third and Fourth Sets of Discovery Requests are attached to the Weisbein Declaration as Exhibits 3 and 4, respectively.

Virginia Tech's response would have been due on October 23, 2014, but on October 21, 2014, Virginia Tech filed a motion for summary judgment on the grounds that HOOS lacked standing to commence the opposition. (Dkt. No. 31). The motion was made after taking the deposition of HOOS's sole member and manager, James Creekmore, whose testimony Virginia Tech believed established that HOOS (1) was a bogus company set up simply to interfere with Virginia Tech's registration of the HOKIE mark, (2) was not offering services competitive with those offered by Virginia Tech under the HOKIE mark, (3) was not using HOKIE as a trademark, and (4) had no legitimate basis to claim damage by reason of Virginia Tech's registration of the HOKIE mark. By Order dated October 23, 2014, the Board suspended the proceedings. (Dkt. No. 32).

By Order dated August 27, 2015, the Board denied Virginia Tech's motion for summary judgment and resumed the proceedings. (Dkt. No. 41). Relying on TBMP Rule 510.03(a), Virginia Tech calculated the date its responses were due from the date of the filing of its motion for summary judgment, namely, October 21, 2014. Thus, Virginia Tech believed it had two days

to file its responses, making them due on **August 31, 2015**. However, HOOS calculated the due date from the date the Board issued the suspension order (October 23, 2014), thereby making Virginia Tech's response due on the very same day the Board issued its order denying Virginia Tech's motion for summary judgment and resuming the proceedings.³

Virginia Tech served responses to HOOS's Third and Fourth Sets of Discovery Requests on August 31, 2015, which were supplemented on September 18, 2015. Copies of Virginia Tech's initial responses to HOOS's Third and Fourth Sets of Discovery Requests are attached to the Weisbein Declaration as Exhibits 6 and 7, respectively. Copies of Virginia Tech's supplemental responses are attached to the Weisbein Declaration as Exhibits 8 and 9, respectively.

III. ARGUMENT

A. HOOS' Notices of Reliance 1, 3 and 4 Are Improper Because They Attempt to Make of Record "Admissions" To Which Responses Were Timely Served.

HOOS filed four Notices of Reliance on December 17, 2015. Three of these Notices (Dkt. Nos. 42, 60, 63) claim Virginia Tech failed to timely respond to HOOS's requests for admission, thereby deeming them "admitted," when in fact, many of these so-called admissions were actually timely denied by Virginia Tech. These Notices of Reliance are therefore improper, and Virginia Tech respectfully requests that the Board strike them in their entireties pursuant to TBMP Rule 532.

HOOS's belief that Virginia Tech did not timely serve responses to its requests for admission stems from HOOS's narrow reading of TBMP Rule 510.03(a). HOOS calculated the request for admissions response dates from the date the Board issued its order of suspension. But TBMP Rule 510.03(a) expressly states that the Board "ordinarily treats the proceedings as if

³ A timeline showing the operative dates is attached to the Weisbein Declaration as Exhibit 5.

it had been suspended as of the filing of a potentially dispositive motion.”⁴ Calculating the response dates from the dates Virginia Tech’s motions for summary judgment were filed, rather than the dates the suspension orders were issued, Virginia Tech timely responded to HOOS’s requests for admission.⁵

This interpretation of TBMP 510.03(a) is consistent with the Board’s decision in *Leeds Technologies Ltd. v. Topaz Communications Ltd*, 65 U.S.P.Q.2d 1203 (TTAB 2002). In *Leeds*, opposer’s responses to applicant’s discovery requests were due after the filing date of opposer’s motion for judgment on the pleadings, but before the Board issued its suspension order. *Id.* at *3. Like HOOS, applicant argued that the response date remained unchanged because the proceeding was not yet suspended. But the Board rejected this argument. While it conceded that the proceeding may not have been “officially suspended” at this time, it nevertheless ruled the proceeding was retroactively suspended as of the filing date of opposer’s motion for judgment on the pleadings. *Id.* Thus, the Board’s decision in *Leeds* supports Virginia Tech’s response date calculations. Its responses to HOOS’ first, third, and fourth sets of requests for admission were therefore timely served. Because HOOS’s first, third, and fourth Notices of Reliance make of record the requests as having been admitted, they are improper and should be stricken from the trial record of this proceeding.

B. In the Alternative, the Board Should Treat Virginia Tech’s “Admissions” as Withdrawn to Further the Merits of the Proceeding.

In the event the Board finds Virginia Tech’s responses untimely and the requests deemed admitted, Virginia Tech moves to withdraw or amend the admissions pursuant to Federal Rules of Civil Procedure 36(b). In applying this Rule, the Board may permit withdrawal or amendment

⁴ TBMP Rule 510.03(a) reads, in pertinent part, “when issuing its suspension order, the Board ordinarily treats the proceeding as if it had been suspended as of the filing date of the potentially dispositive motion.” (Emphasis added).

⁵ For a detailed discussion of Virginia Tech’s response date calculations, the Board is directed to the Statement of Facts section of this Memorandum and the timeline attached to the Weisbein Declaration as Exhibit 5.

of admissions when two prongs are met: (1) the presentation of the merits of the proceeding will be subserved by their withdrawal, and (2) the propounding party fails to satisfy the Board that withdrawal of amendment will prejudice that party in maintaining its action on the merits. Fed. R. Civ. P. 36(b); *Giersch v. Scripps Networks, Inc.*, 85 U.S.P.Q.2d 1306, 1308-09 (TTAB 2007) (granting Rule 36(b) motion to withdraw admissions and accepting later-served responses). Both of these prongs are met here.

First, allowing Virginia Tech to withdraw its admissions furthers the merits of the case because the admissions involve hotly contested issues. Virginia Tech has taken issue with the majority of HOOS's requests, both in its responses to HOOS's requests for admission served mere days after the response deadlines passed, and also in its answer to HOOS's amended notice of opposition. The Board has found that previous denials of admitted facts conclusively satisfy the first prong of Rule 36(b). *See, e.g., Giersch v. Scripps Network, Inc.*, 85 U.S.P.Q.2d 1306 at *3 (TTAB 2007) (denials involving previously admitted facts "demonstrat[e] that the supposedly admitted matters are actually disputed"); *see also Apple Inc. v. Multiple Access Comm., LLC*, 2014 WL 788341 at *3 (TTAB 2014) (permitting withdrawal because previous denials of admitted facts demonstrated that some of the admitted matters were in fact disputed).

As in *Giersh*, Virginia Tech's "admissions" involve necessary elements of HOOS's claims of ® trademark symbol misuse and the date of first use of the mark HOKIE, among others. Virginia Tech has disputed these issues from the inception of this proceeding, and it should be no surprise to HOOS that it continues to do so now. Given the centrality of these issues to HOOS's claims, withdrawal of the admissions is necessary to permit Virginia Tech to fully mount its defense to the baseless claims alleged by HOOS. Therefore, the first prong of Rule 36(b) is satisfied.

Second, HOOS bears the burden of demonstrating that it would be prejudiced by withdrawal under Rule 36(b). Virginia Tech, however, is not required to show that no prejudice will result. Fed. R. Civ. P. 36(b); TBMP Rule 525 (“The Board...may permit withdrawal...of an admission when the propounding party fails to satisfy the Board that withdrawal...will prejudice said party in maintaining its action or defense on the merits.”).

According to HOOS’s response date calculations, Virginia Tech filed its responses to HOOS’s first set of requests for admission just six days late and responses to HOOS’s third and fourth sets of requests just 2 days late. In its responses, Virginia Tech took issue with many of the requests. Previously, it had also timely denied many of these same allegations in its answer to HOOS’s amended notice of opposition. Consequently, Virginia Tech has made it abundantly clear throughout this entire proceeding that these issues are in dispute.

In a factually analogous case, *Warren v. International Broth. of Teamsters, Chauffeurs, Warehousemen, and Helpers of America*, 544 F.2d 334 (8th Cir. 1976), plaintiffs moved at trial to deem certain requests for admission admitted. Defendants had misread Rule 36, causing them to file their responses to plaintiff’s requests for admission 10 days late. Nevertheless, the Eighth Circuit found no abuse in the trial court’s refusal to deem the matters admitted. Because the defendants had specifically denied the requests in late-filed responses, and had also denied the issues in their answer to plaintiff’s amended complaint, the trial court permitted them to withdraw the admissions. *Id.* at 339. In so holding, the Eighth Circuit stated that plaintiffs had “suffered no prejudice in being forced to pursue the action on the merits.” *Id.*

In this case, HOOS has had every indication that the issues of fact raised in its requests for admissions were to be controverted issues at trial. Despite knowing this for over a year, well before discovery closed and its trial testimony period began, HOOS elected to remain silent and

raise the issue for this first time on the eve of the close of its trial testimony period. Under these circumstances, it would be grossly unfair to allow HOOS to prove disputed issues central to its case through contested admissions, and Virginia Tech should therefore be permitted to withdraw the admissions and substitute its later-served responses.

IV. MOTION TO SUSPEND PROCEEDINGS PURSUANT TO TBMP RULE 510.03(A)

Virginia Tech requests suspension of this proceeding pursuant to TBMP Rule 510.03(a). Virginia Tech's motion to strike or in the alternative motion under Rule 36(b) of the Federal Rules of Civil Procedure, if granted, will impact the evidence submitted by Virginia Tech during its trial period. Suspension of the proceedings until the Board rules on Virginia Tech's motion will enable Virginia Tech to consider the Board's decision in preparing its Pretrial Disclosures, which are currently due on January 1, 2016, as well as determine what evidence to present during its trial period that is now set to open on January 16, 2016. Virginia Tech respectfully submits that it has shown good cause for the proceedings to be suspended effective as of the filing date of this motion and for the Board to reset the date on which its pretrial disclosures are due as well as the remaining trial dates upon the resumption of the proceedings. Accordingly, suspension is warranted under TBMP Rule 510.03(a) and Virginia Tech respectfully requests that proceedings be suspended while the Board considers Virginia Tech's motion to strike or in the alternative motion under Rule 36(b) of the Federal Rules of Civil Procedure.

V. CONCLUSION

For the reasons stated above, Virginia Tech respectfully requests that its motion to strike HOOS's First, Third and Fourth Notices of Reliance or in the alternative, that its admissions be withdrawn and its previously served response be deemed to have been served timely under Rule

36(b) of the Federal Rules of Civil Procedure. Furthermore, Virginia Tech respectfully requests that these proceedings be suspended during the pendency of the motion.

Dated on this 23rd day of December, 2015.

Respectfully submitted,

FOLEY & LARDNER LLP

By: 

Robert S. Weisbein, Esq.
Norm J. Rich, Esq.
FOLEY & LARDNER LLP
90 Park Avenue
New York, New York 10016
Telephone: (212) 682-7474
Facsimile: (212) 687-2329

Attorneys for Applicant
Virginia Polytechnic Institute and State
University

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY'S MOTION TO STRIKE OPPOSER HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC'S FIRST, THIRD AND FOURTH NOTICES OF RELIANCE OR IN THE ALTERNATIVE MOVING UNDER FED. R. CIV. P. 36(B) TO WITHDRAW THE ADMISSIONS, along with the supporting DECLARATION OF ROBERT S. WEISBEIN IN SUPPORT OF APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY'S MOTION TO STRIKE OPPOSER HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC'S FIRST, THIRD AND FOURTH NOTICES OF RELIANCE OR IN THE ALTERNATIVE MOTION UNDER FED. R. CIV. P. 36(B) TO WITHDRAW THE ADMISSIONS and addenda thereto, was served by first class U.S. Mail on this 23rd day of December, 2015, to Opposer's correspondent of record as follows:

Keith Finch, Esq.
The Creekmore Law Firm PC
318 North Main Street
Blacksburg, VA 24060



WILLIAM S. WALKER, JR.

CERTIFICATE OF MAILING

I hereby certify this correspondence is being delivered by hand on this 23rd day of December, 2015, in an envelope addressed to:

ATTENTION: Trademark Trial and Appeal Board
c/o The Trademark Assistance Center
Madison East, Concourse Level Room C55
600 Dulany Street
Alexandria, VA 22314



WILLIAM S. WALKER, JR.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X	:	
HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC,	:	
	:	
Opposer,	:	Opposition No. 91207895
	:	
v.	:	Serial No.: 85-531,923
	:	
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY,	:	
	:	
Applicant.	:	
-----X	:	

**DECLARATION OF ROBERT S. WEISBEIN
IN SUPPORT OF APPLICANT VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY'S MOTION TO STRIKE OPPOSER HOKIE
OBJECTIVE ONOMASTICS SOCIETY LLC'S FIRST, THIRD AND
FOURTH NOTICES OF RELIANCE OR IN THE ALTERNATIVE
MOTION UNDER FED. R. CIV. P. 36(B) TO WITHDRAW THE
ADMISSIONS**

I, Robert S. Weisbein, under penalty of perjury under the laws of the United States of America, declare as set forth below:

1. I am an attorney licensed by the State of New York, and am a partner with the law firm of Foley & Lardner LLP, attorneys of record for Applicant Virginia Polytechnic Institute and State University ("Applicant") in the above-captioned proceeding. I have personal knowledge about the matters described in this declaration as set forth below.

2. I make this declaration in support of Applicant's Motion to Strike Opposer's First, Third and Fourth Notices of Reliance or in the Alternative Motion Under Fed. R. Civ. P. 36(b) to Withdraw the Admissions.

3. On September 30, 2013, HOOS served by first class U.S. Mail Opposer's First Set of Discovery Requests which consisted of 85 requests for admission, one interrogatory and

one request for production of documents and things. Opposer's First Set of Discovery Requests are attached hereto as Exhibit 1. Virginia Tech's responses were due thirty-five days later (inclusive of five days for mailing) on November 5, 2013.

4. On October 28, 2013, eight days before Virginia Tech's responses to HOOS's First Set of Discovery Requests were due, Virginia Tech filed a motion for summary judgment (Dkt. No. 12) on the grounds that HOOS was estopped from bringing the within proceeding because it was the alter ego of James Creekmore, who was prohibited from challenging the use and registration of the HOKIE mark by reason of a waiver and release provision contained in a settlement agreement signed by Mr. Creekmore's client in the trademark infringement litigation brought by Virginia Tech against Hokie Real Estate, Inc. ("HRE"), *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010). The waiver and release contained language prohibiting HRE *and its attorneys* from challenging or interfering with Virginia Tech's use and registration of the HOKIE mark.

5. Contained within its motion for summary judgment, Virginia Tech moved under 37 C.F.R. § 2.127(d) to suspend the proceedings, which motion requested the Board to extend its time to respond to HOOS's outstanding discovery. *See* Virginia Tech's brief at pp. 11-12. The Board's November 5, 2013 Order suspending the proceedings was silent on the issue of resetting the time for Virginia Tech to respond to HOOS's First Set of Discovery Requests.

6. On November 5, 2013, the Board entered its Order suspending the proceedings. (Dkt. No. 14). On January 8, 2014, the Board issued its Order, denying Virginia Tech's motion for summary judgment and resuming the proceedings. (Dkt. No. 18). Relying on TBMP Rule 510.03(a), Virginia Tech calculated the due date for it to respond to HOOS's outstanding discovery from the filing date of its motion. Based on that calculation, Virginia Tech's response

would have been due on **January 16, 2014**, eight days after the resumption of the proceedings. HOOS, however, calculated the date due from the issuance of the Board's November 5th order, making Virginia Tech's responses due on **January 9, 2014**, one day after the resumption of the proceedings. Virginia Tech served its responses on January 15, 2014, within the time to respond based on its calculation, but six days late based on HOOS's calculation. A copy of Virginia Tech's responses to HOOS's First Set of Discovery Requests are attached hereto as Exhibit 2.

7. On September 18, 2014, HOOS served its Third and Fourth Sets of Discovery Requests by first class U.S. Mail, making Virginia Tech's responses due thirty-five days later (inclusive of five days for mailing) on October 23, 2014. The Third Set was comprised of twelve requests for admission, one interrogatory and one document request. The Fourth Set was comprised of three requests for admission and one interrogatory. Copies of HOOS's Third and Fourth Sets of Discovery Requests are attached hereto as Exhibits 3 and 4, respectively.

8. Virginia Tech's responses would have been due on October 23, 2014, but on October 21, 2014, Virginia Tech filed a motion for summary judgment on the grounds that HOOS lacked standing to commence the opposition. (Dkt. No. 31). Virginia Tech also moved under 37 C.F.R. § 2.127(d) to suspend the proceedings and requested that its time to respond to respond to HOOS's third and fourth sets of discovery requests be extended by thirty days. *See* Virginia Tech's brief at p. 21. By Order dated October 23, 2014, the Board suspended the proceedings. (Dkt. No. 32). However, the Board did not rule on Virginia Tech's request to extend the time for Virginia Tech to respond to HOOS's outstanding discovery.

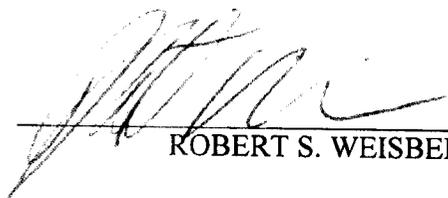
9. By Order dated August 27, 2015, the Board denied Virginia Tech's motion for summary judgment and resumed the proceedings. (Dkt. No. 41). Relying on TBMP Rule 510.03(a), Virginia Tech calculated the date its responses were due from the date of the filing of

its motion for summary judgment, namely, October 21, 2014. Thus, Virginia Tech believed it had two days to file its responses, making them due on **August 31, 2015**. However, HOOS calculated the due date from the date the Board issued the suspension order (October 23, 2014), thereby making Virginia Tech's response due on the very same day the Board issued its order denying Virginia Tech's motion for summary judgment and resuming the proceedings.

10. Virginia Tech served responses to HOOS's Third and Fourth Sets of Discovery Requests on August 31, 2015, which were supplemented on September 18, 2015. Copies of Virginia Tech's initial responses to HOOS's Third and Fourth Sets of Discovery Requests are attached hereto as Exhibits 6 and 7, respectively. Copies of Virginia Tech's supplemental responses are attached hereto as Exhibits 8 and 9, respectively.

11. A timeline showing the operative dates is attached hereto as Exhibit 5.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct, and that this Declaration was executed on December 23, 2015, in New York, New York.



ROBERT S. WEISBEIN

EXHIBIT 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HOKIE OBJECTIVE ONOMASTICS)
SOCIETY LLC,)
)
Opposer,)
v.) Opposition No. 91207895
)
VIRGINIA POLYTECHNIC INSTITUTE) Serial No. 85-531,923
AND STATE UNIVERSITY,)
)
Applicant.)

OPPOSER'S FIRST SET OF DISCOVERY REQUESTS

Opposer Hokie Objective Onomastics Society LLC, by counsel, pursuant to Federal Rules of Civil Procedure 33, 34 and 36, through counsel, hereby requests that Applicant Virginia Polytechnic Institute and State University ("VPI&SU") (a) admit the truth of the matters set forth in the following Requests for Admission; (b) produce for inspection and copying (or produce copies of) the documents and things described in the following Requests for Production of Documents at The Creekmore Law Firm PC, 106 Faculty Street, Blacksburg, Virginia 24060; and (c) respond to the following interrogatory. VPI&SU's responses and productions are to be served within the time prescribed by Federal Rules of Civil Procedure 36(a)(3) and 34(b)(2)(A), respectively.

DEFINITIONS AND INSTRUCTIONS

A. The term "communication" refers to any actual or attempted exchange or transfer of information between or among two or more persons.

B. The term "document" will have the fullest meaning ascribed to the terms "document" and "electronically stored information" by Federal Rule of Civil Procedure 34 and

encompasses written, printed, typed and visually or aurally reproduced material of any kind, whether or not privileged, and includes, but is not limited to, letters, telegrams, facsimile transmissions, electronic mail, work papers, handwritten or other notes, memoranda, inter-office communications, notices, books, studies, analyses, evaluations, statements, summaries, opinions, records, minutes or transcriptions or notations of meetings, telephone conversations or other communications of any type, photographs, bills, contracts, invoices, agreements, orders, receipts, drawings or sketches, advertising or promotional literature, operating manuals or instruction bulletins, cables, tape and other recordings, test data, reports, questionnaires, surveys, charts, graphs, pamphlets and catalogs.

C. The term "identify" or "identification":

- (1) when used in reference to documents and things, means to describe sufficiently (a) the type of document or thing (*e.g.*, letter or memorandum, etc.) and, if electronically stored information, the software application used to create it (*e.g.*, Microsoft Word or Microsoft Excel, etc.); (b) the general subject matter of the document or thing; (c) the date of the document or thing; and (d) the author or creator and recipients of the document or thing;
- (2) when used in reference to a communication, means to describe (a) the date of the communication, (b) the substance of the communication, (c) the identity of all persons and/or entities who were parties to the communication, and (d) the form of the communication (*e.g.*, verbal, written, e-mail, telephonic, etc.);
- (3) when used in reference to a natural person, means to state that person's (a) full name, (b) last known home address, (c) last known home phone

number, (d) last known e-mail address, (e) last known employer, (f) last known work address, and (g) last known job title;

- (4) when used in reference to a legal entity, means to state that entity's (a) full legal name, (b) principal office address and phone number, and (c) responsible officer, owner or agent;
- (5) when used in reference to an agreement, license or understanding, means (a) to identify the parties thereto, (b) to state the date thereof, (c) to describe the general subject matter thereof, and (d) if the agreement, license or understanding is unwritten, to describe in detail the terms and provisions thereof;
- (6) when used in reference to a good or service, means (a) to state the general nature of such good or service, (b) to state the locations where each such good or service has been sold, rendered, offered or provided, and (c) to identify the dates when each such good or service has been sold, rendered, offered or provided; and
- (7) when used in reference to a date, means the exact date, month and year, if ascertainable, or if not, the best approximation (including relationship to other events).

D. The term "person" refers both to natural persons, whether or not in the employ of Applicant or Opposer, and to corporate or other business entities, divisions, departments, units, affiliates, parents, or subsidiaries, and the "acts and knowledge" of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents and attorneys.

E. The term "Applicant" refers to Virginia Polytechnic Institute and State University.

F. The term "thing" will have the fullest meaning ascribed to the term "tangible thing" by Federal Rule of Civil Procedure 34.

G. The term "trademark" or "mark" includes trademarks, service marks, collective marks, certification marks and trade names as defined in 15 U.S.C. §1127. (Opposer's use of the term "trademark" or "mark" in connection with a term is for efficiency only and does not constitute a concession by Opposer that such term is in fact entitled to protection as a trademark or mark.)

H. The term "State" will mean any of the fifty states of the United States as well as the District of Columbia and each individual territory, possession, commonwealth or other jurisdiction of the United States.

I. "HOKIE mark" means the mark HOKIE and all variants thereof, including but not limited to the mark HOKIES, as well as all marks containing or including the mark HOKIE or HOKIES or any variant thereof. (Opposer's use of this defined term is for efficiency only and does not constitute a concession by Opposer that the terms HOKIE and HOKIES are the same when used as a mark, or that they are identical or similar in meaning or usage.)

INSTRUCTIONS

J. If documents or things exist in multiple distinct versions, then produce all such versions. If a document or thing exists in both hard-copy format and electronic format, then produce it in both formats, and ensure that the electronic format is in its native file format (*i.e.*, the format in which it is normally maintained).

K. When asked to “describe” or “describe in detail,” provide a complete and full identification of all details and information concerning such fact, event, ground or allegation that is the subject of the inquiry, including an identification of all documents and things that embody, reflect, refer or relate to, or provide evidence of the fact, grounds or allegation that is the subject of the inquiry.

L. Should Applicant deem to be privileged any documents or information concerning which information or inspection is requested by any of the following requests, Applicant shall indicate that it claims privilege therefor, briefly state the grounds on which the claim of privilege rests, and (consistent with and subject to Federal Rule of Civil Procedure 26(b)(5)(A)) indicate the position held by the person who prepared and/or possesses the document, indicate the position held by the addressee, and identify all persons (and their positions) who received copies of such documents, either at the time of initial distribution or at any subsequent time, all in order that Opposer may have the actual basis to determine whether such documents or information are, in fact, privileged.

M. Applicant has the duty to supplement its responses to these requests at such times and to the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

2. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

3. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

4. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.
5. Admit that in the years from 1901 through 1949 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.
6. Admit that in the years from 1901 through 1949 VPI&SU did not use the "TM" symbol together with the HOKIE mark.
7. Admit that in the years from 1901 through 1949 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.
8. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.
9. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.
10. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.
11. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.
12. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any of its buildings.
13. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in any advertisements.

14. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in the title of any publication.

15. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

16. Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, brief case type portfolio covers, brief cases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

17. Admit that in the years from 1901 through 1949 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA, HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

18. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

19. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.
20. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.
21. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.
22. Admit that in the years from 1950 through 1960 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.
23. Admit that in the years from 1950 through 1960 VPI&SU did not use the "™" symbol together with the HOKIE mark.
24. Admit that in the years from 1950 through 1960 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.
25. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.
26. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.
27. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.
28. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

29. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any of its buildings.

30. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in any advertisements.

31. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in the title of any publication.

32. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

33. Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, brief case type portfolio covers, brief cases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

34. Admit that in the years from 1950 through 1960 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA, HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER,

HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

35. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

36. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

37. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

38. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

39. Admit that in the years from 1961 through 1965 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

40. Admit that in the years from 1961 through 1965 VPI&SU did not use the "™" symbol together with the HOKIE mark.

41. Admit that in the years from 1961 through 1965 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

42. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

43. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.

44. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.

45. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

46. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark on any of its buildings.

47. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in any advertisements.

48. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in the title of any publication.

49. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

50. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, brief case type portfolio covers, brief cases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

51. Admit that in the years from 1961 through 1965 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY

DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA, HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

52. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

53. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

54. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

55. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

56. Admit that in the years from 1966 through 1972 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

57. Admit that in the years from 1966 through 1972 VPI&SU did not use the "™" symbol together with the HOKIE mark.

58. Admit that in the years from 1966 through 1972 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

59. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

60. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.

61. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.

62. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

63. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any of its buildings.

64. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in any advertisements.

65. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in the title of any publication.

66. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

67. Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, brief case type portfolio covers, brief cases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters,

jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

68. Admit that in the years from 1966 through 1972 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA, HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

69. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

70. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

71. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

72. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

73. Admit that in the years from 1973 through 1977 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

74. Admit that in the years from 1973 through 1977 VPI&SU did not use the “™” symbol together with the HOKIE mark.

75. Admit that in the years from 1973 through 1977 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

76. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

77. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in any list of VPI&SU’s trademarks or service marks.

78. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.

79. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

80. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any of its buildings.

81. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in any advertisements.

82. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in the title of any publication.

83. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

84. Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper,

folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, brief case type portfolio covers, brief cases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

85. Admit that in the years from 1973 through 1977 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA, HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

INTERROGATORY

1. Describe in detail the reasons for any denial of any of the above requests for admission, including the date of the use, the duration of the use, the type and quantity of goods or services on or in connection with which the use occurred, and identification of the source of any information supporting the denial.

**REQUEST FOR PRODUCTION
OF DOCUMENTS AND THINGS**

1. Produce all documents and things supporting, or relied upon in making, any denial of any of the above requests for admission, or relied upon in responding to the above interrogatory.

HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC

By:



Keith Finch (VSB No. 37599)
THE CREEKMORE LAW FIRM PC
Attorney for Opposer
318 N. Main Street
Blacksburg, Virginia 24060
(540) 443-9350 – Telephone
(540) 443-9350 – Facsimile
keith@creekmorelaw.com

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2013, I served the foregoing by first-class mail upon the following:

Norm J. Rich
FOLEY & LARDNER LLP
3000 K ST NW FL W6
Washington, DC 20007-5109



Keith Finch (VSB No. 37599)
THE CREEKMORE LAW FIRM PC
Attorney for Opposer
318 N. Main Street
Blacksburg, Virginia 24060
(540) 443-9350 – Telephone
(540) 443-9350 – Facsimile
keith@creekmorelaw.com

EXHIBIT 2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X	:	
HOKIE OBJECTIVE ONOMASTICS	:	
SOCIETY LLC,	:	
Opposer,	:	
v.	:	Opposition No. 91207895
VIRGINIA POLYTECHNIC INSTITUTE	:	
AND STATE UNIVERSITY,	:	
Applicant.	:	Serial No.: 85-531,923
-----X	:	

APPLICANT’S RESPONSES TO OPPOSER’S FIRST DISCOVERY REQUESTS

In accordance with Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules, 37 C.F.R. § 2.120, Applicant Virginia Polytechnic Institute and State University (“Virginia Tech” or “Applicant”), by and through its undersigned attorneys, hereby responds to Opposer’s First Discovery Requests, as set forth below, subject to the objections set forth below.

GENERAL OBJECTIONS

1. The present responses are based upon and reflect only Applicant’s knowledge, information and belief formed after reasonable investigation to determine responsive information. These responses may be subject to change, correction or amplification on the basis of further facts, information or circumstances that may come to Applicant’s attention. In addition, Applicant reserves the right to assert any additional or supplemental objections.

2. Applicant objects to each and every discovery request to the extent that it is inconsistent with or attempts to impose obligations beyond, in addition to, or different from those

imposed by the Federal Rules of Civil Procedure and the Rules of Practice in Trademark cases, 37 C.F.R. § 2.1, *et seq.* (“Trademark Rules”).

3. Applicant objects to the “Definitions and Instructions” as set forth in Opposer’s First Set of Discovery Requests to the extent that they are inconsistent with or attempt to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Trademark Rules. Applicant further objects to any definitions in these discovery requests to the extent that they purport to alter the plain meaning and/or scope of any specific discovery requests on the ground that such alteration renders the discovery requests vague, ambiguous, unduly broad and/or uncertain.

4. Applicant objects to Opposer’s definition of the term “HOKIE Mark” to the extent that it includes marks other than “HOKIE.”

5. Applicant objects to each and every discovery request to the extent that it seeks information protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege, immunity or doctrine, and specifically reserves the right to withhold such information from Opposer. Nothing contained in these responses is intended to be, or in any way constitutes, a waiver of any such applicable privilege, immunity or doctrine.

6. Applicant objects to Opposer’s discovery requests to the extent that they seek information that is not within Applicant’s possession or knowledge, or that Applicant could not determine after conducting a reasonable investigation. In accordance with the requirements of the Federal Rules of Civil Procedure and the Trademark Rules, Applicant’s responses are limited to information in their possession or knowledge.

7. Applicant objects to each and every discovery requests to the extent it seeks information that already is in Opposer's possession or knowledge, or that otherwise is publicly available to Opposer.

8. Applicant objects to Opposer's discovery requests to the extent that they are repetitive and duplicative of one another.

RESPONSES

REQUEST FOR ADMISSION NO. 1:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 2:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of

Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 3:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 4:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 5:

Admit that in the years from 1901 through 1949 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 6:

Admit that in the years from 1901 through 1949 VPI&SU did not use the "TM" symbol together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 7:

Admit that in the years from 1901 through 1949 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 8:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 9:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 10:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 11:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 12:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any of its buildings.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 13:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in any advertisements.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 14:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in the title of any publication.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 15:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is

irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 16:

Admit that in the years from 1901 through 1949 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, briefcase type portfolio covers, briefcases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 17:

Admit that in the years from 1901 through 1949 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA, HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 18:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 19:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 20:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 21:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is

irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 22:

Admit that in the years from 1950 through 1960 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 23:

Admit that in the years from 1950 through 1960 VPI&SU did not use the "TM" symbol together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 24:

Admit that in the years from 1950 through 1960 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 25:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 26:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 27:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 28:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 29:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any of its buildings.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 30:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in any advertisements.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 31:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark in the title of any publication.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 32:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, brief case type portfolio covers, brief cases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 33:

Admit that in the years from 1950 through 1960 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, briefcase type portfolio covers, briefcases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 34:

34. Admit that in the years from 1950 through 1960 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION , HOKIE NATION NETWORK, HOKIES HELPING HOKIES , HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT , HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY , HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART , HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOK.IE FLYING CLUB, HOKIE TICKETS, HOKIBTICKETS.COM , HOKIE HANDBOOK, HOKIE NEWS , HOKIE PARENT, HOKIE HUDDLER , HOKIE SPA, HOKIE, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER,

HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOK.IE STONE in connection with any goods or services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 35:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 36:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 37:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 38:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 39:

Admit that in the years from 1961 through 1965 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 40:

Admit that in the years from 1961 through 1965 VPI&SU did not use "TM" symbol together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of

Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 41:

Admit that in the years from 1961 through 1965 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 42:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is

irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 43:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 44:

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 45:

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 46:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark on any of its buildings.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 47:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in any advertisements.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 48:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in the title of any publication.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 49:

Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 50:

50. Admit that in the years from 1961 through 1965 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, briefcase type portfolio covers, briefcases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 51:

Admit that in the years from 1961 through 1965 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIESHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA,

HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 52:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 53:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 54:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 55:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 56:

Admit that in the years from 1966 through 1972 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 57:

Admit that in the years from 1966 through 1972 VPI&SU did not use "TM" symbol together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of

Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 58:

Admit that in the years from 1966 through 1972 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 59:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is

irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 60:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 61:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 62:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 63:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any of its buildings.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 64:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in any advertisements.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 65:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in the title of any publication.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 66:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 67:

Admit that in the years from 1966 through 1972 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, briefcase type portfolio covers, briefcases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 68:

Admit that in the years from 1966 through 1972 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA,

HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 69:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of goods.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 70:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to identify VPI&SU as a source of services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 71:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to distinguish its goods from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 72:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark to distinguish its services from those of others.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 73:

Admit that in the years from 1973 through 1977 VPI&SU did not consistently use the HOKIE mark in a particular typestyle, font or color so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 74:

Admit that in the years from 1973 through 1977 VPIS.SU did not use "™" symbol together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of

Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 75:

Admit that in the years from 1973 through 1977 VPI&SU did not consistently use the HOKIE mark on a particular part of the page so as to differentiate it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 76:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in any constant pattern that set it off or distinguished it from other text appearing together with the HOKIE mark.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is

irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 77:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in any list of VPI&SU's trademarks or service marks.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 78:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any uniforms of its athletic teams.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 79:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any of its sports scoreboards or sports fields.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 80:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any of its buildings.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 81:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in any advertisements.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 82:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in the title of any publication.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 83:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark in the name of any restaurant or eatery.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by

striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 84:

Admit that in the years from 1973 through 1977 VPI&SU did not use the HOKIE mark on any gold pins, gold earrings, tie tacks, charms, rings, watches, clocks, writing paper, folders, note pads, stationery, looseleaf binders, decals, bumper stickers, note books, calendars, post cards, posters, pens, briefcase type portfolio covers, briefcases, travel bags, backpacks, wallets, umbrellas, drinking glasses, mugs, plastic cups, insulating sleeve holders for beverage cans, waste paper baskets, t-shirts, sport shirts, sweat pants, shorts, sweat shirt, sweaters, jerseys, pants, ties, baby bibs, caps, hats, shoes, jackets, or bath robes that were transported or sold in commerce.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR ADMISSION NO. 85:

Admit that in the years from 1973 through 1977 VPI&SU did not use the terms HOKIE KIDS CLUB, HEALTHY HOKIE, HOKIE NATION, HOKIE NATION NETWORK, HOKIES HELPING HOKIES, HOKIES 4 HIRE, HOKIES FOR THE HUNGRY, HOKIE HANDS, HOKIE PASSPORT, HOKIE HARVEST SALE, HOKIE CAMP, HOKIE FAMILY DAY, HOKIE SPIRIT PICNIC, HOKIE MART, HOKIEMART, HOKIE EXPRESS, HOKIE SHOP, HOKIESHOP.COM, HOKIE FLYING CLUB, HOKIE TICKETS, HOKIETICKETS.COM, HOKIE HANDBOOK, HOKIE NEWS, HOKIE PARENT, HOKIE HUDDLER, HOKIE SPA,

HOKIE F6, HOKIE HI, HOKIE BIRD WINE, HOKIE WATER, HOKIE GRILL, HOKIE FOR LIFE, HOKIE HOME, or HOKIE STONE in connection with any goods or services.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request to Admit on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY

INTERROGATORY NO. 1

Describe in detail the reasons for any denial of any of the above requests for admission, including the date of the use, the duration of the use, the type and quantity of goods or services on or in connection with which the use occurred, and identification of the source of any information supporting the denial.

RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Interrogatory on the ground that it does not seek the discovery of relevant information because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS NO. 1

Produce all documents and things supporting, or relied upon in making, any denial of any of the above requests for admission, or relied upon in responding to the above interrogatory.

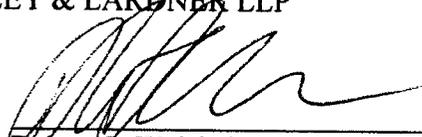
RESPONSE:

In its Order dated January 8, 2014, the Trademark Trial and Appeal Board, *sua sponte* dismissed Count C (False First Use Date) of the July 1, 2013 amended notice of opposition by striking paragraphs 27-28. Applicant, therefore, objects to this Request for Production of Documents and Things on the ground that it does not seek the discovery of relevant documents because it is directed to the issue of Applicant's first use of the HOKIE mark and discovery relating to the issue of the dates of use is irrelevant to the proceedings given the Board's dismissal of Count C. Furthermore, this discovery is not reasonably calculated to lead to the discovery of admissible evidence.

Dated: New York, New York
January 15, 2014

Respectfully submitted,

FOLEY & LARDNER LLP

By: 

Robert S. Weisbein

Norman J. Rich

Casey B. Pearlman

FOLEY & LARDNER LLP

90 Park Avenue

New York, NY 10016-1314

(212) 682-7474

(212) 687-2329

*Attorneys for Applicant Virginia
Polytechnic Institute and State University*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S RESPONSES TO OPPOSER'S FIRST DISCOVERY REQUESTS, was served by first class mail on this 15th day of January, 2014, to Opposer's correspondent of record as follows:

Keith Finch, Esq.
The Creekmore Law Firm PC,
318 North Main Street
Blacksburg, VA 24060



WILLIAM S. WALKER, JR.

EXHIBIT 3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HOKIE OBJECTIVE ONOMASTICS)	
SOCIETY LLC,)	
)	
Opposer,)	
v.)	Opposition No. 91207895
)	
VIRGINIA POLYTECHNIC INSTITUTE)	Serial No. 85-531,923
AND STATE UNIVERSITY,)	
)	
Applicant.)	

OPPOSER'S THIRD SET OF DISCOVERY REQUESTS

Opposer Hokie Objective Onomastics Society LLC, by counsel, pursuant to Federal Rules of Civil Procedure 33, 34 and 36, through counsel, hereby requests that Applicant Virginia Polytechnic Institute and State University ("VPI&SU") (a) admit the truth of the matters set forth in the following Requests for Admission; (b) produce for inspection and copying (or produce copies of) the documents and things described in the following Requests for Production of Documents at The Creekmore Law Firm PC, 318 North Main Street, Blacksburg, Virginia 24060; and (c) respond to the following interrogatory. VPI&SU's responses and productions are to be served within the time prescribed by the Federal Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

A. The term "communication" refers to any actual or attempted exchange or transfer of information between or among two or more persons.

B. The term "document" will have the fullest meaning ascribed to the terms "document" and "electronically stored information" by Federal Rule of Civil Procedure 34 and

encompasses written, printed, typed and visually or aurally reproduced material of any kind, whether or not privileged, and includes, but is not limited to, letters, telegrams, facsimile transmissions, electronic mail, work papers, handwritten or other notes, memoranda, inter-office communications, notices, books, studies, analyses, evaluations, statements, summaries, opinions, records, minutes or transcriptions or notations of meetings, telephone conversations or other communications of any type, photographs, bills, contracts, invoices, agreements, orders, receipts, drawings or sketches, advertising or promotional literature, operating manuals or instruction bulletins, cables, tape and other recordings, test data, reports, questionnaires, surveys, charts, graphs, pamphlets and catalogs.

C. The term “identify” or “identification”:

- (1) when used in reference to documents and things, means to describe sufficiently (a) the type of document or thing (*e.g.*, letter or memorandum, etc.) and, if electronically stored information, the software application used to create it (*e.g.*, Microsoft Word or Microsoft Excel, etc.); (b) the general subject matter of the document or thing; (c) the date of the document or thing; and (d) the author or creator and recipients of the document or thing;
- (2) when used in reference to a communication, means to describe (a) the date of the communication, (b) the substance of the communication, (c) the identity of all persons and/or entities who were parties to the communication, and (d) the form of the communication (*e.g.*, verbal, written, e-mail, telephonic, etc.);
- (3) when used in reference to a natural person, means to state that person’s (a) full name, (b) last known home address, (c) last known home phone

number, (d) last known e-mail address, (e) last known employer, (f) last known work address, and (g) last known job title;

- (4) when used in reference to a legal entity, means to state that entity's (a) full legal name, (b) principal office address and phone number, and (c) responsible officer, owner or agent;
- (5) when used in reference to an agreement, license or understanding, means (a) to identify the parties thereto, (b) to state the date thereof, (c) to describe the general subject matter thereof, and (d) if the agreement, license or understanding is unwritten, to describe in detail the terms and provisions thereof;
- (6) when used in reference to a good or service, means (a) to state the general nature of such good or service, (b) to state the locations where each such good or service has been sold, rendered, offered or provided, and (c) to identify the dates when each such good or service has been sold, rendered, offered or provided; and
- (7) when used in reference to a date, means the exact date, month and year, if ascertainable, or if not, the best approximation (including relationship to other events).

D. The term "person" refers both to natural persons, whether or not in the employ of Applicant or Opposer, and to corporate or other business entities, divisions, departments, units, affiliates, parents, or subsidiaries, and the "acts and knowledge" of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents and attorneys.

E. The term “Applicant” refers to Virginia Polytechnic Institute and State University.

F. The term “thing” will have the fullest meaning ascribed to the term “tangible thing” by Federal Rule of Civil Procedure 34.

G. The term “trademark” or “mark” includes trademarks, service marks, collective marks, certification marks and trade names as defined in 15 U.S.C. §1127. (Opposer’s use of the term “trademark” or “mark” in connection with a term is for efficiency only and is not a concession by Opposer that such term is in fact entitled to protection as a trademark or mark.)

H. “HOKIE mark” means the mark HOKIE and all variants thereof, including but not limited to the mark HOKIES, as well as all marks containing or including the words HOKIE or HOKIES or any variant thereof. (Opposer’s use of this defined term is for efficiency only and does not constitute a concession by Opposer that the terms HOKIE and HOKIES are the same when used as a mark, or that they are identical or similar in meaning or usage.)

I. The phrase “singular HOKIE term” means the word HOKIE and does not include any variants or plurals thereof.

INSTRUCTIONS

J. If documents or things exist in multiple distinct versions, then produce all such versions. If a document or thing exists in both hard-copy format and electronic format, then produce it in both formats, and ensure that the electronic format is in its native file format (*i.e.*, the format in which it is normally maintained).

K. When asked to “describe” or “describe in detail,” provide a complete and full identification of all details and information concerning such fact, event, ground or allegation

that is the subject of the inquiry, including an identification of all documents and things that embody, reflect, refer or relate to, or provide evidence of the fact, grounds or allegation that is the subject of the inquiry.

L. Should Applicant deem to be privileged any documents or information concerning which information or inspection is requested by any of the following requests, Applicant shall indicate that it claims privilege therefor, briefly state the grounds on which the claim of privilege rests, and (consistent with and subject to Federal Rule of Civil Procedure 26(b)(5)(A)) indicate the position held by the person who prepared and/or possesses the document, indicate the position held by the addressee, and identify all persons (and their positions) who received copies of such documents, either at the time of initial distribution or at any subsequent time, all in order that Opposer may have the actual basis to determine whether such documents or information are, in fact, privileged.

M. Applicant has the duty to supplement its responses to these requests at such times and to the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. With respect to each item depicted in (a) pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of the PDF file served with these requests entitled "Exhibit A-2 to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit A-2) and (b) each item depicted in the PDF file served with these requests entitled "Exhibit C to Opposer's Third Set of Discovery Requests.pdf," ("Exhibit C") admit that VPI&SU authorized the use of the circle-r "®" registration symbol in connection with the singular HOKIE term on such item.

2. With respect to each item depicted in (a) pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-

002400 of Exhibit A-2 and (b) each item depicted in Exhibit C, admit that VPI&SU used the circle-r “®” registration symbol in connection with the singular HOKIE term on such item.

3. With respect to (a) each item depicted in pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of Exhibit A-2 and (b) each item depicted in Exhibit C, admit that a licensee of VPI&SU used the circle-r “®” registration symbol in connection with the singular HOKIE term on such item.

4. With respect to each document at pages (a) HOKIE-2011-01-21-002265 through HOKIE-2011-01-21-002268 of Exhibit A-2, (b) HOKIE-2011-01-21-002623 of Exhibit A-2, (c) HOKIE-2011-01-21-002630 through HOKIE-2011-01-21-002687 of Exhibit A-2, and (c) HOKIE-2011-01-21-002700 through HOKIE-2011-01-21-002707 of Exhibit A-2, admit the following:

- (i) The documents are authentic and genuine copies of the original documents.
- (ii) The documents were made by VPI&SU in the regular course of business.
- (iii) The documents were made by a person in the course of his or her job duties, and who had a duty to make a true record.
- (iv) The documents are kept by VPI&SU in the ordinary course of business.
- (v) The documents are used and relied upon by VPI&SU in the transaction of business.
- (vi) The documents were made at or near the time of the events described therein.
- (vii) The documents were made by, or from information transmitted by, a person with knowledge of the facts contained therein.
- (viii) The custodian of the documents in fact has custody of them.

5. With respect to each document at pages (a) HOKIE-2011-01-21-001865 through HOKIE-2011-01-21-001866 of Exhibit A-2; (b) HOKIE-2011-01-21-001868 through HOKIE-2011-01-21-001872 of Exhibit A-2; (c) HOKIE-2011-01-21-001874 through HOKIE-2011-01-21-002015 of Exhibit A-2; (d) HOKIE-2011-01-21-002471 through HOKIE-2011-01-21-002473 of Exhibit A-2; and (e) HOKIE-2011-01-21-002531 through HOKIE-2011-01-21-002532 of Exhibit A-2; admit the following:

- (i) VPI&SU received a copy of the document in January 2011.
- (ii) In January 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.
- (iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.
- (iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.
- (v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.
- (vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

6. With respect to each document in the PDF file served with these requests entitled "Exhibit B-2 to Opposer's Third Set of Discovery Requests.pdf," admit the following:

- (i) VPI&SU received a copy of the document in February 2011.
- (ii) In February 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.

- (iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.
- (iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.
- (v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.
- (vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

7. With respect to the document at page HOKIE-2011-02-27-00030 in the PDF file served with these requests entitled "Exhibit D to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit D"), admit the following:

- (i) VPI&SU received a copy of the document in February 2011.
- (ii) In February 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.
- (iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.
- (iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.
- (v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.
- (vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

8. With respect to each document at pages HOKIE-2011-04-26-000001 through HOKIE-2011-04-26-000050 in the PDF file served with these requests entitled "Exhibit E to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit E"), admit the following:

- (i) VPI&SU received a copy of the document in April 2011.
- (ii) In April 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.
- (iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.
- (iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.
- (v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.
- (vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

9. With respect to each third party use identified at pages 5 through 36 of the PDF file served with these requests entitled "Exhibit A-1 to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit A-1"), admit the following:

- (i) VPI&SU received a copy of Exhibit A-1 in January 2011.
- (ii) In January 2011, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit A-1, VPI&SU has taken no action to confirm the third party use.
- (iv) Since receiving Exhibit A-1, VPI&SU has taken no action to stop the third party use.

(v) Since receiving Exhibit A-1, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.

(vi) The third party use is not presently authorized by VPI&SU.

10. With respect to each third party use identified at pages 2 through 21 of the PDF file served with these requests entitled "Exhibit B-1 to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit B-1"), admit the following:

(i) VPI&SU received a copy of Exhibit B-1 in February 2011.

(ii) In February 2011, the third party use was not authorized by VPI&SU.

(iii) Since receiving Exhibit B-1, VPI&SU has taken no action to confirm the third party use.

(iv) Since receiving Exhibit B-1, VPI&SU has taken no action to stop the third party use.

(v) Since receiving Exhibit B-1, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.

(vi) The third party use is not presently authorized by VPI&SU.

11. With respect to the third party use identified at page 3 of Exhibit D, admit the following:

(i) VPI&SU received a copy of Exhibit D in February 2011.

(ii) In February 2011, the third party use was not authorized by VPI&SU.

(iii) Since receiving Exhibit D, VPI&SU has taken no action to confirm the third party use.

(iv) Since receiving Exhibit D, VPI&SU has taken no action to stop the third party use.

(v) Since receiving Exhibit D, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.

(vi) The third party use is not presently authorized by VPI&SU.

12. With respect to each third party use identified at pages 3 through 21 of Exhibit E, admit the following:

(vii) VPI&SU received a copy of Exhibit E in April 2011.

(vii) In April 2011, the third party use was not authorized by VPI&SU.

(viii) Since receiving Exhibit E, VPI&SU has taken no action to confirm the third party use.

(ix) Since receiving Exhibit E, VPI&SU has taken no action to stop the third party use.

(x) Since receiving Exhibit E, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.

(xi) The third party use is not presently authorized by VPI&SU.

INTERROGATORIES

1. Describe in detail the reasons for any denial of any of the above requests for admission, including the date and nature of any action taken to confirm or stop any third party use or of any action taken to cause a third party user to obtain a license for such use from VPI&SU.

**REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS**

1. Produce all documents and things supporting, or relied upon in making, any denial of any of the above requests for admission, or relied upon in responding to the above interrogatory, including any communications or agreements with third party users.

HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC

By:

A handwritten signature in black ink, appearing to read "Keith Finch", is written over a solid horizontal line.

Keith Finch (VSB No. 37599)
THE CREEKMORE LAW FIRM PC
Attorney for Opposer
318 N. Main Street
Blacksburg, Virginia 24060
(540) 443-9350 – Telephone
(540) 443-9352 – Facsimile
keith@creekmorelaw.com

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2014, I served the foregoing by first-class mail upon the following:

Norm J. Rich, Esq.
Robert S. Weisbein, Esq.
FOLEY & LARDNER LLP
3000 K Street, N.W., Suite 600
Washington, DC 20007-5109

A handwritten signature in cursive script that reads "Keith Finch". The signature is written in black ink and is positioned above a solid horizontal line.

Keith Finch (VSB No. 37599)
THE CREEKMORE LAW FIRM PC
Attorney for Opposer
318 N. Main Street
Blacksburg, Virginia 24060
(540) 443-9350 – Telephone
(540) 443-9352 – Facsimile
keith@creekmorelaw.com

EXHIBIT 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HOKIE OBJECTIVE ONOMASTICS)	
SOCIETY LLC,)	
)	
Opposer,)	
v.)	Opposition No. 91207895
)	
VIRGINIA POLYTECHNIC INSTITUTE)	Serial No. 85-531,923
AND STATE UNIVERSITY,)	
)	
Applicant.)	

OPPOSER'S FOURTH SET OF DISCOVERY REQUESTS

Opposer Hokie Objective Onomastics Society LLC, by counsel, pursuant to Federal Rules of Civil Procedure 33, 34 and 36, through counsel, hereby requests that Applicant Virginia Polytechnic Institute and State University ("VPI&SU") (a) admit the truth of the matters set forth in the following Requests for Admission and (b) respond to the following interrogatory. VPI&SU's responses and productions are to be served within the time prescribed by the Federal Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

A. The term "communication" refers to any actual or attempted exchange or transfer of information between or among two or more persons.

B. The term "document" will have the fullest meaning ascribed to the terms "document" and "electronically stored information" by Federal Rule of Civil Procedure 34 and encompasses written, printed, typed and visually or aurally reproduced material of any kind, whether or not privileged, and includes, but is not limited to, letters, telegrams, facsimile transmissions, electronic mail, work papers, handwritten or other notes, memoranda, inter-

office communications, notices, books, studies, analyses, evaluations, statements, summaries, opinions, records, minutes or transcriptions or notations of meetings, telephone conversations or other communications of any type, photographs, bills, contracts, invoices, agreements, orders, receipts, drawings or sketches, advertising or promotional literature, operating manuals or instruction bulletins, cables, tape and other recordings, test data, reports, questionnaires, surveys, charts, graphs, pamphlets and catalogs.

C. The term “identify” or “identification”:

- (1) when used in reference to documents and things, means to describe sufficiently (a) the type of document or thing (*e.g.*, letter or memorandum, etc.) and, if electronically stored information, the software application used to create it (*e.g.*, Microsoft Word or Microsoft Excel, etc.); (b) the general subject matter of the document or thing; (c) the date of the document or thing; and (d) the author or creator and recipients of the document or thing;
- (2) when used in reference to a communication, means to describe (a) the date of the communication, (b) the substance of the communication, (c) the identity of all persons and/or entities who were parties to the communication, and (d) the form of the communication (*e.g.*, verbal, written, e-mail, telephonic, etc.);
- (3) when used in reference to a natural person, means to state that person’s (a) full name, (b) last known home address, (c) last known home phone number, (d) last known e-mail address, (e) last known employer, (f) last known work address, and (g) last known job title;

- (4) when used in reference to a legal entity, means to state that entity's (a) full legal name, (b) principal office address and phone number, and (c) responsible officer, owner or agent;
- (5) when used in reference to an agreement, license or understanding, means (a) to identify the parties thereto, (b) to state the date thereof, (c) to describe the general subject matter thereof, and (d) if the agreement, license or understanding is unwritten, to describe in detail the terms and provisions thereof;
- (6) when used in reference to a good or service, means (a) to state the general nature of such good or service, (b) to state the locations where each such good or service has been sold, rendered, offered or provided, and (c) to identify the dates when each such good or service has been sold, rendered, offered or provided; and
- (7) when used in reference to a date, means the exact date, month and year, if ascertainable, or if not, the best approximation (including relationship to other events).

D. The term "person" refers both to natural persons, whether or not in the employ of Applicant or Opposer, and to corporate or other business entities, divisions, departments, units, affiliates, parents, or subsidiaries, and the "acts and knowledge" of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents and attorneys.

E. The term "Applicant" refers to Virginia Polytechnic Institute and State University.

F. The term “thing” will have the fullest meaning ascribed to the term “tangible thing” by Federal Rule of Civil Procedure 34.

G. The term “trademark” or “mark” includes trademarks, service marks, collective marks, certification marks and trade names as defined in 15 U.S.C. §1127. (Opposer’s use of the term “trademark” or “mark” in connection with a term is for efficiency only and is not a concession by Opposer that such term is in fact entitled to protection as a trademark or mark.)

H. “HOKIE mark” means the mark HOKIE and all variants thereof, including but not limited to the mark HOKIES, as well as all marks containing or including the words HOKIE or HOKIES or any variant thereof. (Opposer’s use of this defined term is for efficiency only and does not constitute a concession by Opposer that the terms HOKIE and HOKIES are the same when used as a mark, or that they are identical or similar in meaning or usage.)

I. The phrase “singular HOKIE term” means the word HOKIE and does not include any variants or plurals thereof.

INSTRUCTIONS

J. If documents or things exist in multiple distinct versions, then produce all such versions. If a document or thing exists in both hard-copy format and electronic format, then produce it in both formats, and ensure that the electronic format is in its native file format (*i.e.*, the format in which it is normally maintained).

K. When asked to “describe” or “describe in detail,” provide a complete and full identification of all details and information concerning such fact, event, ground or allegation that is the subject of the inquiry, including an identification of all documents and things that

embody, reflect, refer or relate to, or provide evidence of the fact, grounds or allegation that is the subject of the inquiry.

L. Should Applicant deem to be privileged any documents or information concerning which information or inspection is requested by any of the following requests, Applicant shall indicate that it claims privilege therefor, briefly state the grounds on which the claim of privilege rests, and (consistent with and subject to Federal Rule of Civil Procedure 26(b)(5)(A)) indicate the position held by the person who prepared and/or possesses the document, indicate the position held by the addressee, and identify all persons (and their positions) who received copies of such documents, either at the time of initial distribution or at any subsequent time, all in order that Opposer may have the actual basis to determine whether such documents or information are, in fact, privileged.

M. Applicant has the duty to supplement its responses to these requests at such times and to the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. With respect to each document in the PDF file served with these requests entitled "Exhibit A to Opposer's Fourth Set of Discovery Requests.pdf" admit the following:
 - (i) The document is an authentic and genuine copy of the original document.
 - (ii) The document was made by VPI&SU in the regular course of business.
 - (iii) The document was made by a person in the course of his or her job duties, and who had a duty to make a true record.
 - (iv) The document is kept by VPI&SU in the ordinary course of business.
 - (v) The document is used and relied upon by VPI&SU in the transaction of business.
 - (vi) The document was made at or near the time of the events described therein.

(vii) The document was made by, or from information transmitted by, a person with knowledge of the facts contained therein.

(viii) The custodian of the document in fact has custody of it.

(ix) VPI&SU previously produced the document to a third party pursuant to a discovery request.

2. With respect to each document among the copies of issues of the VPI&SU student newspaper and copies of editions of the VPI&SU yearbook served together with Opposer's Responses to Applicant's First Request for Production of Documents and Things (dated September 30, 2013), admit the following:

(i) The document is an authentic and genuine copy of the original document.

(ii) The document was made by VPI&SU in the regular course of business.

(iii) The document was made by a person in the course of his or her job duties, and who had a duty to make a true record.

(iv) The document is kept by VPI&SU in the ordinary course of business.

(v) The document is used and relied upon by VPI&SU in the transaction of business.

(vi) The document was made at or near the time of the events described therein.

(vii) The document was made by, or from information transmitted by, a person with knowledge of the facts contained therein.

(viii) The custodian of the document in fact has custody of it.

3. With respect to the document at pages HOKIE-2011-01-21-002269 through HOKIE-2011-01-21-002269 of the PDF file served with Opposer's Third Set of Discovery Requests requests entitled "Exhibit A-2 to Opposer's Third Set of Discovery Requests.pdf," admit that VPI&SU received a copy of the document in March or April 2010.

INTERROGATORIES

1. Describe in detail the reasons for any denial of any of the above requests for admission.

HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC

By:

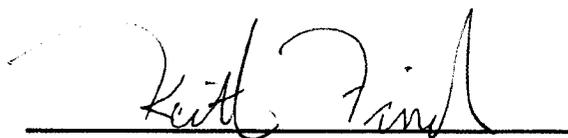
A handwritten signature in black ink, appearing to read "Keith Finch", is written over a solid horizontal line.

Keith Finch (VSB No. 37599)
THE CREEKMORE LAW FIRM PC
Attorney for Opposer
318 N. Main Street
Blacksburg, Virginia 24060
(540) 443-9350 – Telephone
(540) 443-9352 – Facsimile
keith@creekmorelaw.com

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2014, I served the foregoing by first-class mail upon the following:

Norm J. Rich, Esq.
Robert S. Weisbein, Esq.
FOLEY & LARDNER LLP
3000 K Street, N.W., Suite 600
Washington, DC 20007-5109

A handwritten signature in cursive script that reads "Keith Finch". The signature is written in black ink and is positioned above a solid horizontal line.

Keith Finch (VSB No. 37599)
THE CREEKMORE LAW FIRM PC
Attorney for Opposer
318 N. Main Street
Blacksburg, Virginia 24060
(540) 443-9350 – Telephone
(540) 443-9352 – Facsimile
keith@creekmorelaw.com

EXHIBIT 5

REQUEST FOR ADMISSIONS TIMELINE

Date of Service/Filing Date/Order Date	Responses Initially Due On:	Balance of Days from Filing Below	Balance of Days from SIM Order Suspend Below	Due Date After Order for Responses	Responses Served
Monday, September 30, 2013	Opposer's First Set of Discovery Requests	8	1		
Monday, October 28, 2013	APPLICANT'S MOTION FOR SUMMARY JUDGEMENT				
Tuesday, November 05, 2013	TTAB Order Suspending Proceedings				
Wednesday, January 08, 2014	TTAB Decision; Proceedings Resumed			Thursday, January 9, 2014; or Thursday, January 16, 2014	
Wednesday, January 15, 2014	APPLICANT'S RESPONSES TO OPPOSER'S FIRST DISCOVERY REQUESTS			Wednesday, January 15, 2014	
Wednesday, February 05, 2014	Opposer's Motion for Reconsideration				
Monday, February 24, 2014	APPLICANT'S OPPOSITION TO MOTION FOR RECONSIDERATION				
Wednesday, April 09, 2014	TTAB Order Suspending Proceedings pending Opposer's Motion for Reconsideration				
Friday, April 18, 2014	TTAB Modified Suspension Order				
Wednesday, May 21, 2014	TTAB Decision Granting Opposer's Motion for Reconsideration; Proceedings Remain Suspended				
Wednesday, August 13, 2014	TTAB Decision; Proceedings Resumed				
Thursday, September 18, 2014	Opposer's Third Set of Discovery Requests	2	0	Thursday, October 23, 2014	
Thursday, September 18, 2014	Opposer's Fourth Set of Discovery Requests	2	0	Thursday, October 23, 2014	
Friday, September 19, 2014	APPLICANT RESPONSES TO OPPOSER'S SECOND DISCOVERY REQUESTS			Friday, September 19, 2014	
Tuesday, October 21, 2014	APPLICANT'S MOTION FOR SUMMARY JUDGEMENT				
Thursday, October 23, 2014	TTAB Order Suspending Proceedings	2	0		
Thursday, August 27, 2015	TTAB Decision; Proceedings Resumed	2	0	Monday, August 31, 2015	
Monday, August 31, 2015	APPLICANT RESPONSES TO OPPOSER'S THIRD DISCOVERY REQUESTS			Monday, August 31, 2015	
Monday, August 31, 2015	APPLICANT RESPONSES TO OPPOSER'S FOURTH DISCOVERY REQUESTS			Monday, August 31, 2015	
Friday, September 18, 2015	APPLICANT SUPPLEMENTAL RESPONSES TO OPPOSER'S THIRD DISCOVERY REQUESTS			Friday, September 18, 2015	
Friday, September 18, 2015	APPLICANT SUPPLEMENTAL RESPONSES TO OPPOSER'S FOURTH DISCOVERY REQUESTS			Friday, September 18, 2015	

EXHIBIT 6

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X	:	
HOKIE OBJECTIVE ONOMASTICS	:	
SOCIETY LLC,	:	
	:	
Opposer,	:	Opposition No. 91207895
	:	
v.	:	Serial No.: 85-531,923
	:	
VIRGINIA POLYTECHNIC INSTITUTE	:	
AND STATE UNIVERSITY,	:	
	:	
Applicant.	:	
-----X		

**APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE
UNIVERSITY’S RESPONSES TO OPPOSER HOKIE OBJECTIVE
ONOMASTICS SOCIETY LLC’S THIRD DISCOVERY REQUESTS**

In accordance with Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules, 37 C.F.R. § 2.120, Applicant Virginia Polytechnic Institute and State University (“Virginia Tech” or “Applicant”), by and through its undersigned attorneys, hereby responds to Opposer’s First Discovery Requests, as set forth below, subject to the objections set forth below.

GENERAL OBJECTIONS

1. The present responses are based upon and reflect only Applicant’s knowledge, information and belief formed after reasonable investigation to determine responsive information. These responses may be subject to change, correction or amplification on the basis of further facts, information or circumstances that may come to Applicant’s attention. In addition, Applicant reserves the right to assert any additional or supplemental objections.

2. Applicant objects to each and every discovery request to the extent that it is inconsistent with or attempts to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Rules of Practice in Trademark cases, 37 C.F.R. § 2.1, *et seq.* (“Trademark Rules”).

3. Applicant objects to the “Definitions and Instructions” as set forth in Opposer’s Third Set of Discovery Requests to the extent that they are inconsistent with or attempt to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Trademark Rules. Applicant further objects to any definitions in these discovery requests to the extent that they purport to alter the plain meaning and/or scope of any specific discovery requests on the ground that such alteration renders the discovery requests vague, ambiguous, unduly broad and/or uncertain.

4. Applicant objects to Opposer’s definition of the term “HOKIE Mark” to the extent that it includes marks other than “HOKIE.”

5. Applicant objects to each and every discovery request to the extent that it seeks information protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege, immunity or doctrine, and specifically reserves the right to withhold such information from Opposer. Nothing contained in these responses is intended to be, or in any way constitutes, a waiver of any such applicable privilege, immunity or doctrine.

6. Applicant objects to Opposer’s discovery requests to the extent that they seek information that is not within Applicant’s possession or knowledge, or that Applicant could not determine after conducting a reasonable investigation. In accordance with the requirements of

the Federal Rules of Civil Procedure and the Trademark Rules, Applicant's responses are limited to information in their possession or knowledge.

7. Applicant objects to each and every discovery requests to the extent it seeks information that already is in Opposer's possession or knowledge, or that otherwise is publicly available to Opposer.

8. Applicant objects to Opposer's discovery requests to the extent that they are repetitive and duplicative of one another.

RESPONSES

REQUEST FOR PRODUCTION NO. 1.

With respect to each item depicted in (a) pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of the PDF file served with these requests entitled "Exhibit A-2 to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit A-2) and (b) each item depicted in the PDF file served with these requests entitled "Exhibit C to Opposer's Third Set of Discovery Requests.pdf," ("Exhibit C") admit that VPI&SU authorized the use of the circle-r "©" registration symbol in connection with the singular HOKIE term on such item.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit,

considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 2.

With respect to each item depicted in (a) pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of Exhibit A-2 and (b) each item depicted in Exhibit C, admit that VPI&SU used the circle-r “©” registration symbol in connection with the singular HOKIE term on such item.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 3.

With respect to (a) each item depicted in pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of Exhibit A-2 and (b) each item depicted in Exhibit C, admit that a licensee of VPI&SU used the circle-r “©” registration symbol in connection with the singular HOKIE term on such item.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 4.

With respect to each document at pages (a) HOKIE-2011-01-21-002265 through HOKIE-2011-01-21-002268 of Exhibit A-2, (b) HOKIE-2011-01-21-002623 of Exhibit A-2, (c) HOKIE-2011-01-21-002630 through HOKIE-2011-01-21-002681 of Exhibit A-2, and (c) HOKIE-2011-01-21-0021 00 through HOKIE-2011-01-21-002707 of Exhibit A-2, admit the following:

- (i) The documents are authentic and genuine copies of the original documents.
- (ii) The documents were made by VPI&SU in the regular course of business.

(iii) The documents were made by a person in the course of his or her job duties, and who had a duty to make a true record.

(iv) The documents are kept by VPI&SU in the ordinary course of business.

(v) The documents are used and relied upon by VPI&SU in the transaction of business.

(vi) The documents were made at or near the time of the events described therein.

(vii) The documents were made by, or from information transmitted by, a person with knowledge of the facts contained therein.

(viii) The custodian of the documents in fact has custody of them.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 5.

With respect to each document at pages (a) HOKIE-2011-01-21-001865 through HOKIE-2011-01-21-001866 of Exhibit A-2; (b) HOKIE-2011-01-21-001868 through HOKIE-2011-01-21-001872 of Exhibit A-2; (c) HOKIE-2011-01-21-001874 through HOKIE-2011-01-21-002015 of Exhibit A-2; (d) HOKIE-2011-01-21-002471 through HOKIE-2011-01-21-002473 of Exhibit A-2; and (e) HOKIE-2011-01-21-002531 through HOKIE-2011-01-21-002532 of Exhibit A-2; admit the following:

(i) VPI&SU received a copy of the document in January 2011.

(ii) In January 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.

(iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.

(iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.

(v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.

(vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 6.

With respect to each document in the PDF file served with these requests entitled “Exhibit B-2 to Opposer’s Third Set of Discovery Requests.pdf,” admit the following:

(i) VPI&SU received a copy of the document in February 2011.

(ii) In February 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.

(iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.

(iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.

(v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.

(vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant

objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 7.

With respect to the document at page HOKIE-2011-02-27-00030 in the PDF file served with these requests entitled "Exhibit D to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit D"), admit the following:

(i) VPI&SU received a copy of the document in February 2011.

(ii) In February 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.

(iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.

(iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.

(v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.

(vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 8.

With respect to each document at pages HOKIE-2011-04-26-000001 through HOKIE-2011-04-26-000050 in the PDF file served with these requests entitled “Exhibit E to Opposer’s Third Set of Discovery Requests.pdf”(“Exhibit E’), admit the following:

(i) VPI&SU received a copy of the document in April 2011.

(ii) In April 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.

(iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.

(iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.

(v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.

(vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia*

Polytechnic Institute and State University v. Hokie Real Estate, Inc., 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 9.

With respect to each third party use identified at pages 5 through 36 of the PDF file served with these requests entitled “Exhibit A-1 to Opposer’s Third Set of Discovery Requests.pdf” (“Exhibit A-1”), admit the following:

(i) VPI&SU received a copy of Exhibit A-1 in January 2011.

- (ii) In January 2011, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit A-1, VPI&SU has taken no action to confirm the third party use.
- (iv) Since receiving Exhibit A-1, VPI&SU has taken no action to stop the third party use.
- (v) Since receiving Exhibit A-1, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.
- (vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

- (i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.
- (ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 10.

With respect to each third party use identified at pages 2 through 21 of the PDF file served with these requests entitled “Exhibit B-1 to Opposer’s Third Set of Discovery Requests.pdf” (“Exhibit B- 1”), admit the following:

- (i) VPI&SU received a copy of Exhibit B-1 in February 2011.
- (ii) In February 2011, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit B-1, VPI&SU has taken no action to confirm the third party use.
- (iv) Since receiving Exhibit B-1, VPI&SU has taken no action to stop the third party use.
- (v) Since receiving Exhibit B-1, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.
- (vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required

to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 11.

With respect to the third party use identified at page 3 of Exhibit D, admit the following:

(i) VPI&SU received a copy of Exhibit D in February 2011.

- (ii) In February 2017, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit D, VPI&SU has taken no action to confirm the third party use.
- (iv) Since receiving Exhibit D, VPI&SU has taken no action to stop the third party use.
- (v) Since receiving Exhibit D, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.
- (vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION NO. 12.

With respect to each third party use identified at pages 3 through 21 of Exhibit E, admit the following:

(i) VPI&SU received a copy of Exhibit E in April 2011.

(ii) In April 2011, the third party use was not authorized by VPI&SU.

(iii) Since receiving Exhibit E, VPI&SU has taken no action to confirm the third party use.

(vi) Since receiving Exhibit E, VPI&SU has taken no action to stop the third party use.

(v) Since receiving Exhibit E, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.

(vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia*

Polytechnic Institute and State University v. Hokie Real Estate, Inc., 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

INTERROGATORY

INTERROGATORY NO. 1

Describe in detail the reasons for any denial of any of the above requests for admission, including the date and nature of any action taken to confirm or stop any third party use or of any action taken to cause a third party user to obtain a license for such use from VPI&SU.

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(xi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS NO. 1

Produce all documents and things supporting, or relied upon in making, any denial of any of the above requests for admission, or relied upon in responding to the above interrogatory, including any communications or agreements with third party users.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit,

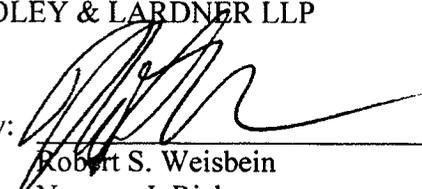
considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

Dated: New York, New York
August 31, 2015

Respectfully submitted,

FOLEY & LARDNER LLP

By:



Robert S. Weisbein

Norman J. Rich

FOLEY & LARDNER LLP

90 Park Avenue

New York, NY 10016-1314

(212) 682-7474

(212) 687-2329

*Attorneys for Applicant Virginia
Polytechnic Institute and State University*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY'S RESPONSES TO OPPOSER HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC'S THIRD DISCOVERY REQUESTS, was served by first class mail on this 31st day of August, 2015, to Opposer's correspondent of record as follows:

Keith Finch, Esq.
The Creekmere Law Firm PC
318 North Main Street
Blacksburg, VA 24060



WILLIAM S. WALKER, JR.

EXHIBIT 7

imposed by the Federal Rules of Civil Procedure and the Rules of Practice in Trademark cases, 37 C.F.R. § 2.1, *et seq.* (“Trademark Rules”).

3. Applicant objects to the “Definitions and Instructions” as set forth in Opposer’s First Set of Discovery Requests to the extent that they are inconsistent with or attempt to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Trademark Rules. Applicant further objects to any definitions in these discovery requests to the extent that they purport to alter the plain meaning and/or scope of any specific discovery requests on the ground that such alteration renders the discovery requests vague, ambiguous, unduly broad and/or uncertain.

4. Applicant objects to Opposer’s definition of the term “HOKIE Mark” to the extent that it includes marks other than “HOKIE.”

5. Applicant objects to each and every discovery request to the extent that it seeks information protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege, immunity or doctrine, and specifically reserves the right to withhold such information from Opposer. Nothing contained in these responses is intended to be, or in any way constitutes, a waiver of any such applicable privilege, immunity or doctrine.

6. Applicant objects to Opposer’s discovery requests to the extent that they seek information that is not within Applicant’s possession or knowledge, or that Applicant could not determine after conducting a reasonable investigation. In accordance with the requirements of the Federal Rules of Civil Procedure and the Trademark Rules, Applicant’s responses are limited to information in their possession or knowledge.

7. Applicant objects to each and every discovery requests to the extent it seeks information that already is in Opposer's possession or knowledge, or that otherwise is publicly available to Opposer.

8. Applicant objects to Opposer's discovery requests to the extent that they are repetitive and duplicative of one another.

RESPONSES

REQUEST FOR ADMISSION NO. 1:

With respect to each document in the PDF file served with these requests entitled "Exhibit A to Opposer's Fourth Set of Discovery Requests.pdf" admit the following:

- (i) The document is an authentic and genuine copy of the original document.
- (ii) The document was made by VPI&SU in the regular course of business.
- (iii) The document was made by a person in the course of his or her job duties, and who had a duty to make a true record.
- (iv) The document is kept by VPI&SU in the ordinary course of business.
- (v) The document is used and relied upon by VPI&SU in the transaction of business.
- (vi) The document was made at or near the time of the events described therein.
- (vii) The document was made by, or from information transmitted by, a person with knowledge of the facts contained therein.
- (viii) The custodian of the document in fact has custody of it.
- (ix) VPI&SU previously produced the document to a third party pursuant to a discovery request..

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia*

Polytechnic Institute and State University v. Hokie Real Estate, Inc., 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(xi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR ADMISSION NO. 2:

With respect to each document among the copies of issues of the VPI&SU student newspaper and copies of editions of the VPI&SU yearbook served together with Opposer's Responses to Applicant's First Request for Production of Documents and Things (dated September 30, 2013), admit the following:

- (i) The document is an authentic and genuine copy of the original document.
- (ii) The document was made by VPI&SU in the regular course of business.
- (iii) The document was made by a person in the course of his or her job duties, and who had a duty to make a true record.
- (iv) The document is kept by VPI&SU in the ordinary course of business.
- (v) The document is used and relied upon by VPI&SU in the transaction of business.
- (vi) The document was made at or near the time of the events described therein.
- (vii) The document was made by, or from information transmitted by, a person with knowledge of the facts contained therein.
- (viii) The custodian of the document in fact has custody of it.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

REQUEST FOR ADMISSION NO. 3:

With respect to the document at pages HOKIE-201 1-01-21-002269 through HOKIE-2011-01-21-002269 of the PDF file served with Opposer's Third Set of Discovery Requests requests entitled "Exhibit A-2 to Opposer's Third Set of Discovery Requests.pdf," admit that VPI&SU received a copy of the document in March or April 2010.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly

broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this request.

INTERROGATORY

INTERROGATORY NO. 1

Describe in detail the reasons for any denial of any of the above requests for admission.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Interrogatory on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit,

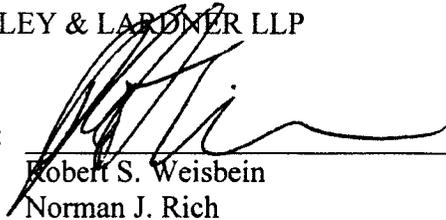
considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

Dated: New York, New York
August 31, 2015

Respectfully submitted,

FOLEY & LARDNER LLP

By:



Robert S. Weisbein
Norman J. Rich
FOLEY & LARDNER LLP
90 Park Avenue
New York, NY 10016-1314
(212) 682-7474
(212) 687-2329

*Attorneys for Applicant Virginia
Polytechnic Institute and State University*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY'S RESPONSES TO OPPOSER HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC'S FOURTH DISCOVERY REQUESTS, was served by first class mail on this 31st day of August, 2015, to Opposer's correspondent of record as follows:

Keith Finch, Esq.
The Creekmore Law Firm PC
318 North Main Street
Blacksburg, VA 24060



WILLIAM S. WALKER, JR.

EXHIBIT 8

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X	:	
HOKIE OBJECTIVE ONOMASTICS	:	
SOCIETY LLC,	:	
	:	
Opposer,	:	Opposition No. 91207895
	:	
v.	:	Serial No.: 85-531,923
	:	
VIRGINIA POLYTECHNIC INSTITUTE	:	
AND STATE UNIVERSITY,	:	
	:	
Applicant.	:	
-----X		

**APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE
UNIVERSITY’S SUPPLEMENTAL RESPONSES TO OPPOSER HOKIE
OBJECTIVE ONOMASTICS SOCIETY LLC’S THIRD DISCOVERY REQUESTS**

In accordance with Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules, 37 C.F.R. § 2.120, Applicant Virginia Polytechnic Institute and State University (“Virginia Tech” or “Applicant”), by and through its undersigned attorneys, hereby responds to Opposer’s First Discovery Requests, as set forth below, subject to the objections set forth below.

DEFINITION

The term “DKI” when used in these responses means that Applicant lacks knowledge or information sufficient to be able to either admit or deny the Request for Admission notwithstanding having made a reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny said Request for Admission.

GENERAL OBJECTIONS

1. The present responses are based upon and reflect only Applicant's knowledge, information and belief formed after reasonable investigation to determine responsive information. These responses may be subject to change, correction or amplification on the basis of further facts, information or circumstances that may come to Applicant's attention. In addition, Applicant reserves the right to assert any additional or supplemental objections.

2. Applicant objects to each and every discovery request to the extent that it is inconsistent with or attempts to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Rules of Practice in Trademark cases, 37 C.F.R. § 2.1, *et seq.* ("Trademark Rules").

3. Applicant objects to the "Definitions and Instructions" as set forth in Opposer's Third Set of Discovery Requests to the extent that they are inconsistent with or attempt to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Trademark Rules. Applicant further objects to any definitions in these discovery requests to the extent that they purport to alter the plain meaning and/or scope of any specific discovery requests on the ground that such alteration renders the discovery requests vague, ambiguous, unduly broad and/or uncertain.

4. Applicant objects to Opposer's definition of the term "HOKIE Mark" to the extent that it includes marks other than "HOKIE."

5. Applicant objects to each and every discovery request to the extent that it seeks information protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege, immunity or doctrine, and specifically reserves the right to

withhold such information from Opposer. Nothing contained in these responses is intended to be, or in any way constitutes, a waiver of any such applicable privilege, immunity or doctrine.

6. Applicant objects to Opposer's discovery requests to the extent that they seek information that is not within Applicant's possession or knowledge, or that Applicant could not determine after conducting a reasonable investigation. In accordance with the requirements of the Federal Rules of Civil Procedure and the Trademark Rules, Applicant's responses are limited to information in their possession or knowledge.

7. Applicant objects to each and every discovery requests to the extent it seeks information that already is in Opposer's possession or knowledge, or that otherwise is publicly available to Opposer.

8. Applicant objects to Opposer's discovery requests to the extent that they are repetitive and duplicative of one another.

RESPONSES

REQUEST FOR ADMISSION NO. 1.

With respect to each item depicted in (a) pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of the PDF file served with these requests entitled "Exhibit A-2 to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit A-2) and (b) each item depicted in the PDF file served with these requests entitled "Exhibit C to Opposer's Third Set of Discovery Requests.pdf," ("Exhibit C") admit that VPI&SU authorized the use of the circle-r "©" registration symbol in connection with the singular HOKIE term on such item.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required

to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL OBJECTION:

Applicant further objects to this Request for Admission insofar as it relates to documents bearing Bates nos. 2011-01-21-002271—002280, entitled “Listing of Items Illegally Using the Federal Registration Symbol (“®”) With The Unregistered Term HOKIE,” which was presumably prepared by Opposer’s counsel, on the grounds that Applicant has no way to verify the accuracy of the information contained therein and therefore is not in a position to either admit or deny said Request for Admission.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit A annexed hereto for Applicant’s Supplemental Response.

REQUEST FOR ADMISSION NO. 2.

With respect to each item depicted in (a) pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of Exhibit A-2 and (b) each item depicted in Exhibit C, admit that VPI&SU used the circle-r “©” registration symbol in connection with the singular HOKIE term on such item.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL OBJECTION:

Applicant further objects to this Request for Admission insofar as it relates to documents bearing Bates nos. 2011-01-21-002271—002280, entitled “Listing of Items Illegally Using the Federal Registration Symbol (“®”) With The Unregistered Term HOKIE,” which was presumably prepared by Opposer’s counsel, on the grounds that Applicant has no way to verify the accuracy of the information contained therein and therefore is not in a position to either admit or deny said Request for Admission.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit A annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 3.

With respect to (a) each item depicted in pages HOKIE-2011-01-21-001734 through HOKIE-2011-01-21-001771 and HOKIE-2011-01-21-002271 through HOKIE-2011-01-21-002400 of Exhibit A-2 and (b) each item depicted in Exhibit C, admit that a licensee of VPI&SU used the circle-r "©" registration symbol in connection with the singular HOKIE term on such item.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL OBJECTION:

Applicant further objects to this Request for Admission insofar as it relates to documents bearing Bates nos. 2011-01-21-002271—002280, entitled "Listing of Items Illegally Using the

Federal Registration Symbol (“®”) With The Unregistered Term HOKIE,” which was presumably prepared by Opposer’s counsel, on the grounds that Applicant has no way to verify the accuracy of the information contained therein and therefore is not in a position to either admit or deny said Request for Admission.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit A annexed hereto for Applicant’s Supplemental Response.

REQUEST FOR ADMISSION NO. 4.

With respect to each document at pages (a) HOKIE-2011-01-21-002265 through HOKIE-2011-01-21-002268 of Exhibit A-2, (b) HOKIE-2011-01-21-002623 of Exhibit A-2, (c) HOKIE-2011-01-21-002630 through HOKIE-2011-01-21-002681 of Exhibit A-2, and (c) HOKIE-2011-01-21-0021 00 through HOKIE-2011-01-21-002707 of Exhibit A-2, admit the following:

- (i) The documents are authentic and genuine copies of the original documents.
- (ii) The documents were made by VPI&SU in the regular course of business.
- (iii) The documents were made by a person in the course of his or her job duties, and who had a duty to make a true record.
- (iv) The documents are kept by VPI&SU in the ordinary course of business.
- (v) The documents are used and relied upon by VPI&SU in the transaction of business.
- (vi) The documents were made at or near the time of the events described therein.
- (vii) The documents were made by, or from information transmitted by, a person with knowledge of the facts contained therein.
- (viii) The custodian of the documents in fact has custody of them.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly

broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit B annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 5.

With respect to each document at pages (a) HOKIE-2011-01-21-001865 through HOKIE-2011-01-21-001866 of Exhibit A-2; (b) HOKIE-2011-01-21-001868 through HOKIE-2011-01-21-001872 of Exhibit A-2; (c) HOKIE-2011-01-21-001874 through HOKIE-2011-01-21-002015 of Exhibit A-2; (d) HOKIE-2011-01-21-002471 through HOKIE-2011-01-21-002473 of Exhibit A-2; and (e) HOKIE-2011-01-21-002531 through HOKIE-2011-01-21-002532 of Exhibit A-2; admit the following:

- (i) VPI&SU received a copy of the document in January 2011.
- (ii) In January 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.
- (iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.
- (iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.
- (v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.
- (vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required

to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit C annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 6.

With respect to each document in the PDF file served with these requests entitled “Exhibit B-2 to Opposer’s Third Set of Discovery Requests.pdf,” admit the following:

- (i) VPI&SU received a copy of the document in February 2011.
- (ii) In February 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.
- (iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.
- (iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.
- (v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.
- (vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit D annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 7.

With respect to the document at page HOKIE-2011-02-27-00030 in the PDF file served with these requests entitled "Exhibit D to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit D"), admit the following:

(i) VPI&SU received a copy of the document in February 2011.

(ii) In February 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.

(iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.

(iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.

(v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.

(vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit E annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 8.

With respect to each document at pages HOKIE-2011-04-26-000001 through HOKIE-2011-04-26-000050 in the PDF file served with these requests entitled "Exhibit E to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit E"), admit the following:

(i) VPI&SU received a copy of the document in April 2011.

(ii) In April 2011, the use of the HOKIE mark depicted in the document was not authorized by VPI&SU.

(iii) Since receiving the document, VPI&SU has taken no action to confirm the use of the HOKIE mark depicted in the document.

(iv) Since receiving the document, VPI&SU has taken no action to stop the use of the HOKIE mark depicted in the document.

(v) Since receiving the document, VPI&SU has taken no action to require or request that the user of the HOKIE mark as depicted in the document obtain a license for such use from VPI&SU.

(vi) The use of the HOKIE mark depicted in the document is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit F annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 9.

With respect to each third party use identified at pages 5 through 36 of the PDF file served with these requests entitled "Exhibit A-1 to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit A-1"), admit the following:

- (i) VPI&SU received a copy of Exhibit A-1 in January 2011.
- (ii) In January 2011, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit A-1, VPI&SU has taken no action to confirm the third party use.
- (iv) Since receiving Exhibit A-1, VPI&SU has taken no action to stop the third party use.
- (v) Since receiving Exhibit A-1, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.
- (vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant

objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit G annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 10.

With respect to each third party use identified at pages 2 through 21 of the PDF file served with these requests entitled "Exhibit B-1 to Opposer's Third Set of Discovery Requests.pdf" ("Exhibit B- 1"), admit the following:

- (i) VPI&SU received a copy of Exhibit B-1 in February 2011.
- (ii) In February 2011, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit B-1, VPI&SU has taken no action to confirm the third party use.
- (iv) Since receiving Exhibit B-1, VPI&SU has taken no action to stop the third party use.
- (v) Since receiving Exhibit B-1, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.
- (vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

- (i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.
- (ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit H annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 11.

With respect to the third party use identified at page 3 of Exhibit D, admit the following:

- (i) VPI&SU received a copy of Exhibit D in February 2011.
- (ii) In February 2017, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit D, VPI&SU has taken no action to confirm the third party use.
- (iv) Since receiving Exhibit D, VPI&SU has taken no action to stop the third party use.
- (v) Since receiving Exhibit D, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.
- (vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit E annexed hereto for Applicant's Supplemental Response.

REQUEST FOR ADMISSION NO. 12.

With respect to each third party use identified at pages 3 through 21 of Exhibit E, admit the following:

- (i) VPI&SU received a copy of Exhibit E in April 2011.
- (ii) In April 2011, the third party use was not authorized by VPI&SU.
- (iii) Since receiving Exhibit E, VPI&SU has taken no action to confirm the third party use.
- (vi) Since receiving Exhibit E, VPI&SU has taken no action to stop the third party use.
- (v) Since receiving Exhibit E, VPI&SU has taken no action to require or request that the user of the third party use obtain a license for such use from VPI&SU.
- (vi) The third party use is not presently authorized by VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit,

considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, see Exhibit F annexed hereto for Applicant's Supplemental Response.

INTERROGATORY

INTERROGATORY NO. 1

Describe in detail the reasons for any denial of any of the above requests for admission, including the date and nature of any action taken to confirm or stop any third party use or of any action taken to cause a third party user to obtain a license for such use from VPI&SU.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(xi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL OBJECTION:

Applicant further objects to Interrogatory No. 1 on the ground that responding to this Interrogatory would require Applicant to, in essence, respond to more than seventy-five interrogatories, including subparts. Opposer has served twelve Requests for Admission, many of which have between six to eight separate requests for admission that pertain to many hundreds of documents. This Interrogatory calls for Applicant to describe in detail the reasons for its denial of any of the Requests for Admission. Given the number of Requests for Admission, including subparts, the many hundreds of documents relating thereto, and the numerous denials interposed by Applicant in response to the Requests for Admission, responding to this Interrogatory would exceed the seventy-five interrogatory limit imposed by Rule 405.3 of the Trademark Manual of Procedure. Consequently, Applicant need not respond to this Interrogatory.

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS NO. 1

Produce all documents and things supporting, or relied upon in making, any denial of any of the above requests for admission, or relied upon in responding to the above interrogatory, including any communications or agreements with third party users.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit,

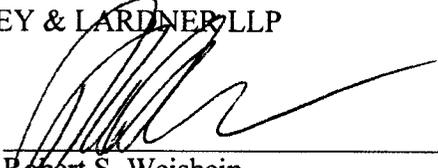
considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

Dated: New York, New York
September 18, 2015

Respectfully submitted,

FOLEY & LARDNER LLP

By:



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Norman J. Rich
FOLEY & LARDNER LLP
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(212) 682-7474
(212) 687-2329

*Attorneys for Applicant Virginia
Polytechnic Institute and State University*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY'S SUPPLEMENTAL RESPONSES TO OPPOSER HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC'S THIRD DISCOVERY REQUESTS, was served by first class mail on this 18th day of September, 2015, to Opposer's correspondent of record as follows:

Keith Finch, Esq.
The Creekmore Law Firm PC
318 North Main Street
Blacksburg, VA 24060



WILLIAM S. WALKER, JR.

EXHIBIT A

EXHIBIT A

RFA	Exhibit	Bates Nos.	Description	Admit VT authorized use of ®	Admit VT used ®	Admit VT licensee used ®
1,2,3	A-2	001734-001771	Primarily artwork for merchandise	DKI	DKI	DKI
		1734	Volunteer - Reasons to Hire a Hokie	Admit	Admit	DKI
	C-VT 009972	1735	Script Hokie Artwork	DKI	Deny	DKI
	C-VT after C-VT 011075	1736	VT Women Hokie Strong Since 1921	DKI	DKI	DKI
	C-VT 010775	1737	VT Athletics	Admit	Admit	DKI
		1738	All Roads Lead to HokieZone	DKI	Deny	DKI
	C-VT 009976	1739	Running Strong; Hokie Strong	DKI	DKI	DKI
		1740	14th Annual Hokie Classic	DKI	Deny	DKI
	C-VT 009978	1741	VT Environmental Science - Tree Hugging Hokie	Admit	DKI	DKI
		1742	Little Hokie Onsie	DKI	Deny	DKI
	C-VT 010042	1743	Hokie Girls - T-shirt drawings	DKI	Deny	DKI
	C-VT 010043	1744	Hokie Girl - T-shirt drawing	DKI	Deny	DKI
	C-VT 010040	1745	Lil' Hokie - Big Fan - t-shirt drawing	DKI	Deny	DKI
	C-VT 010447	1746	Hokie Zone	DKI	Deny	DKI
	C-VT 010580	1747	Hokie Girl - artwork for shot glass	Admit	Deny	Admit
	C-VT 010448	1748	Career Fair Volunteer - drawing for t-shirt	Admit	Admit	DKI
		1749	hokie girl (flowers) artwork	DKI	Deny	DKI
	C-VT 010308	1750	Hokie Ball (baseball)	Admit	DKI	DKI
	C-VT 010444	1751	MV Nets (related to Marching Virginians)	DKI	DKI	DKI
	C-VT 010142	1752	Virginia Tech Football Hokie Tradition artwork	DKI	Deny	DKI
	C-VT 010983	1753	Hokie Hops - Fridays with the Flock - left chest artwork	DKI	Deny	DKI
	C-VT 011027	1754	HokieDad Virginia Tech - full chest artwork	DKI	Deny	DKI
	C-VT 011075	1755	VT Concrete Canoe - Hokie Aggrenauts - artwork for t-shirts	DKI	Deny	DKI
	C-VT 013084	1756	VT What's a Hokie? I am T-shirt art	DKI	DKI	DKI
	C-VT 013108	1757	Hokie Strong. (HokieBird in camouflage)	DKI	DKI	DKI
	C-VT 013063	1758	VT What's a Hokie? I am T-shirt art (Orientation staff)	Admit	Admit	DKI
		1759	HokiePride VT - t-shirt	DKI	Deny	DKI
		1760	Virginia Tech Hokie Kids' Club	DKI	DKI	DKI
		1761	Virginia Tech Hokie Kids' Club - Proud sponsors	DKI	DKI	DKI
		1762	Official Member HKC	DKI	DKI	DKI
		1763	Official Member HKC	DKI	DKI	DKI
		1764	We're on Hokie Time (clock)	DKI	Deny	DKI
	C-VT 010531	1765	101 My First Text Board Book	Admit	Deny	Admit
		1766	B&W photo of "Hokie Pooch" dog tag	DKI	Deny	DKI
		1767	B&W photo of "Hokie Kitty" tag	DKI	Deny	DKI
		1768	Video cover - Hokie Nation "A Team, A town, etc..."	Admit	Deny	Admit
	C-VT 012985	1769	I Wanna Grow Up To be a Hokie - T-shirt drawing	DKI	Deny	DKI
	C-VT 011673	1770	Mock up of driking up using Hokie	DKI	DKI	DKI
		1771	Mock up of Hokie Nation sweatshirt	DKI	Deny	DKI
		2271-2280	List of 65 items "illegally bearing registered mark."	See Objection	See Objection	See Objection
		2281	Screen shot from VT website	Admit	Admit	Deny
		2282	Blind Imagery	DKI	DKI	DKI
	C-VT 010111	2283	Sippy Cup with Baby Hokie Bird	Admit	Deny	Admit
		2284	Born a Hokie baby rattle	DKI	Deny	DKI
		2285-2286	It's Official I'm a Hokie cup	DKI	DKI	DKI
		2287	Sippy Cup using HokieBird	DKI	Deny	DKI
		2288	Hokie Nuts	Admit	Deny	Admit
		2289	Bag of Hokie Nuts	Admit	Admit	Admit
		2290	HokieWater	Admit	Admit	Admit
		2291-2292	It's a great day to be a HOKIE t-shirt	Admit	Deny	Admit
	C-VT 012968	2293	Hokie Nation decals	DKI	Deny	DKI
		2294	Hokie Dog water bowl	DKI	Deny	DKI
		2295-2296	Hokie Cheer banner?	DKI	Deny	DKI

EXHIBIT A

RFA	Exhibit	Bates Nos.	Description	Admit VT authorized use of ®	Admit VT used ®	Admit VT licensee used ®
		2297	Hokie Nation - notebook (map)	Admit	Deny	Admit
		2298	We're on Hokie Time (clock) - repeat of 1764	DKI	Deny	DKI
		2299	Hokie Water bottle	Admit	Admit	Admit
		2300-2301	My First Hokie Mug	DKI	Deny	DKI
		2302-2303	Hokie Nation Mug	DKI	Deny	DKI
		2304-2306	Once a Hokie Always a Hokie Banner	Admit	Deny	Admit
		2307-2308	Hokie Nation Banner	Admit	Deny	DKI
	C-VT 012172	2309-2314	Hokie Pride Catch It T-shirt and close ups	Admit	Deny	Admit
		2315	Absolutely Positively Without a Doubt VT (HOKIE is not used on this shirt)	Admit	Deny	Admit
		2316-2317	100% Hokie Fan & close up	Admit	Deny	Admit
		2318	Virginia Tech 2010 (Hokie not used on this shirt)	Admit	Deny	Admit
		2319-2320	HOKIE Football 2010 Tailgate Tour	DKI	Deny	DKI
		2321-2322	Hokie Love T-shirt	Admit	Deny	Admit
		2323-2324	Future Hokie (maternity top)	Admit	Deny	Admit
		2325-2326	When I Grow Up I want to be a hokie (onsie)	Admit	Deny	Admit
		2327-2328	Virginia Tech (jumper) - front and back	Admit	Deny	Admit
		2329-2330	Hokie Nation Hi t-shirt	Admit	Deny	Admit
		2331-2332	Hokie Nation White t-shirt	Admit	Deny	Admit
		2333-2334	Virginia Tech Hokie Sportsman	DKI	Deny	DKI
		2335-2336	Reelin in the Competition Hokie Sportsman	DKI	Deny	DKI
		2337-2338	Blacksburg Hokie Country	DKI	Deny	DKI
		2339	Hokie Girl Hat	DKI	Deny	DKI
		2340	Baby hokie hat	DKI	Deny	DKI
		2341	Announcing the Newest Hokie - baby announcement	DKI	Deny	DKI
		2342-2343	Hokie Nation Video	Admit	Deny	Admit
		2344	If God isn't a Hokie why do the leaves turn...	DKI	Deny	DKI
		2345-2346	VT Hokie Country	DKI	Deny	DKI
		2347-2348	Hokie Nation t	Admit	Deny	Admit
	C-VT 011531, C-VT 011073	2349-2350	I am a Hokie	Admit	Deny	Admit
	C-VT 011531	2351-2352	Hokie Nation t	Admit	Deny	Admit
	C-VT 010405	2353-2354	Hokie Nation t	Admit	Deny	Admit
	C-VT011483	2355-2356	Hokie Nation T	DKI	Deny	Admit
		2357-2358	Little Hokie t	Admit	Deny	Admit
		2359-2361	VT Hokie jumper	Admit	Deny	Admit
		2362-2362	VT Hokie jumper	Admit	Deny	Admit
		2364	repeat of 2361	Admit	Deny	Admit
		2365-2266	Hokie Girl	Admit	Deny	Admit
	C-VT 010446	2367-2368	Hokie Girl hoodie	Admit	Deny	Admit
	C-VT 010443	2369	Hokie shorts	Admit	Deny	Admit
		2370	Hokie hat	Admit	Deny	Admit
		2371-2372	Old Hokie Clothing Co	Admit	Deny	Admit
		2373-2374	Old Hokie Trademark	Admit	Deny	Admit
		2375	Hokie Fans Parking sign	Admit	Deny	Admit
		2376-2377	VT Hokie Hoops	Admit	Deny	Admit
		2378-2379	Little Hokie jumper	Admit	Deny	Admit
		2380	VT Hokie Country snowman	Admit	Deny	Admit
		2381-2383	Est VT 1872 - Be Hokie Proud	Admit	Deny	Admit
		2384-2385	Hokie Football Perfection	Admit	Deny	Admit
	C-VT 011672	2386	It's official I'm a Hokie Keytag	DKI	Deny	DKI
	C-VT 012893	2387-2388	VT Hokie Nation Softball	Admit	DKI	Admit

EXHIBIT A

RFA	Exhibit	Bates Nos.	Description	Admit VT authorized use of ®	Admit VT used ®	Admit VT licensee used ®
	C-VT 012870	2389-2390	Maroon + Orange = Hokie Nation	Admit	Deny	Admit
	C-VT 012894	2391-2392	Virginia Tech Hokie Nation	Admit	Deny	Admit
	C-VT 012905	2393-2394	Virginia Tech Hokie Nation	Admit	Deny	Admit
		23945-2396	VT Hokie Football	Admit	DKI	Admit
		2397-2398	VT Hokie Football	Admit	DKI	Admit
		2399-2400	Hokie * Nation	DKI	Deny	DKI
1,2,3	C					
		VT 010101	VT Hokie Football - I "heart" Virginia Tech Hokie Football	DKI	Deny	DKI
		VT 010112	Baby Hokie Bird newborn hat	DKI	Deny	DKI
		VT 010119	VT 2008 Hokie Schedule	DKI	Deny	DKI
		VT 010120	Virginia Tech 2008 Hokie Schedule	DKI	Deny	DKI
		VT 010123	Virginia Tech Junior Hokie with Baby Hokie Bird	DKI	Deny	DKI
		VT 010174	Hokie Bird White	DKI	Deny	DKI
		VT 010174	Hokie Bird Red	DKI	Deny	DKI
		VT 010182	This is VT Hokie Country - VT The Pride of Virginia	DKI	Deny	DKI
		VT 010184	VT Hokie Girl - Sweeter Than Sweet Tea	DKI	Deny	DKI
		VT 010186	VT Hokie Girls Always in Style	DKI	Deny	DKI
		VT 010233	VT Little Hokie	DKI	Deny	DKI
		VT 010234	VT Little Hokie	DKI	Deny	DKI
		VT 010242	VT Little Hokie	DKI	Deny	DKI
		VT 010287	Getting on Track What's a Hokie I am	DKI	DKI	DKI
		VT 010295	Getting on Track What's a Hokie I am	DKI	DKI	DKI
		VT 010297	Hokie F6 The First Six Weeks GT	DKI	DKI	DKI
		VT 010303	Virginia Tech Hokie Classic	DKI	DKI	DKI
		VT 010304	UUSA The Center of Hokie Community	Admit	DKI	Deny
	C-VT 010295	VT 010305	Getting on Track What's a Hokie I am	Admit	DKI	DKI
		VT 010319	VT Hokie Tennis	Admit	DKI	DKI
		VT 010331	Hokie	DKI	Deny	DKI
		VT 010438	15th Annual Hokie Classic	DKI	Deny	DKI
		VT 010441	Fall focus Career Fair - I hired a Hokie	Admit	Admit	DKI
		VT 010442	Advancing Hokie Health - Schiffert Health Center	Admit	DKI	DKI
		VT 011473	Hokie Hi VT Virginia Tech Hokies	DKI	Deny	DKI
		VT 011478	Virginia Tech Football Action Packed	DKI	Deny	DKI
		VT 011482	Hokies 2009 Football - New Sheriff In Town 12 Most Wanted	DKI	Deny	DKI
		VT 011575	Hokie Nation	DKI	Deny	DKI
		VT 011657	Hokie Girl	DKI	Deny	DKI
		VT 011664	Hokie Mom	DKI	Deny	DKI
		VT 011665	Hokie Girl	DKI	Deny	DKI
		VT 011666	Hokie Dad	DKI	Deny	DKI
		VT 011667	Hokie Alumni	DKI	Deny	DKI
		VT 011721	Hokie Kids' Club Official Member	DKI	DKI	DKI
		VT 011860	This Guy Is A Hokie	DKI	Deny	DKI
		VT 011889	VT Hokie Couture	DKI	Deny	DKI
		VT 012355	VT Hokie Nation	DKI	Deny	DKI
		VT 012371	Virginia Tech, VT Hokie Onesie	DKI	Deny	DKI
		VT 012390	VT HokieBird, Peace, Hope & Love	DKI	Deny	DKI
		VT 012482	VT Hokie Girl	DKI	Deny	DKI
		VT 012592	Hokie Tradition Virginia Tech Football	DKI	Deny	DKI
		VT 012655	Hokie Pride White Background	DKI	Deny	DKI
		VT 012682	Hokie Pride Maroon Background	DKI	Deny	DKI
		VT 012694	Virginia Tech VT Hokie Nation	DKI	Deny	DKI
		VT 012859	Virginia Tech Hokie Girl	DKI	Deny	DKI
		VT	Virginia Tech VT Hokies - Hokie Nation	DKI	Deny	DKI
		VT 012875	Virginia Tech Basket Ball - Hokie Nation	DKI	Deny	DKI

EXHIBIT A

RFA	Exhibit	Bates Nos.	Description	Admit VT authorized use of ®	Admit VT used ®	Admit VT licensee used ®
		VT 012895	Virginia Tech Soccer - Hokie Nation	DKI	Deny	DKI
		VT 012900	Virginia Tech Baseball - Hokie Nation	DKI	Deny	DKI
		VT 012902	Virginia Tech Football - Hokie Nation	DKI	Deny	DKI
		VT	Virginia Tech Hokie Athletics	DKN	Deny	DKI
		VT 013065	Hokie F6 The First Six Weeks GT	DKI	DKI	DKI
		VT 013081	25th Annual Hokie Celebration Major Sponsor	DKN	DKN	DKI
		VT 013085	Hokie F6 The First Six Weeks GT	DKI	DKI	DKI
		VT 013087	Hokie F6 The First Six Weeks GT	DKI	DKI	DKI
		VT 013110	Kiss Me, I'm A Hokie	DKI	Deny	DKI
		VT 013114	Delta Gamma Hokie Girls	DKI	Deny	DKI
		VT 010766	Virginia Tech Member Hokie Nation	DKI	Deny	DKI
		VT 010892	My Kid And My Money Go To Virginia Tech, Hokie Nation	DKI	Deny	DKI
		VT 010920	Hokie Hottie	DKI	Deny	DKI
		VT 010922	Hokie Hottie - Virginia Tech	DKI	Deny	DKI
		VT 010927	VT - Hokie Parent	DKI	Deny	DKI
		VT 010932	Hokie Girl	DKI	Deny	DKI
		VT 010946	Another NonSmoking Hokie	Admit	DKI	DKI
		VT 010947	Helping Our Mother Earth	DKI	Deny	DKI
		VT 010949	VitaminWater Hokie Open 2009	DKI	DKI	DKI
		VT 010950	VitaminWater Hokie Open 2009	DKI	DKI	DKI
		VT 010953	VitaminWater Hokie Open 2009	DKI	DKI	DKI
		VT 010957	Hokie F6 The First Six Weeks GT	DKI	DKI	DKI
		VT 010959	Team Hokie - VT Go Greek	DKI	Deny	DKI
		VT 010962	Hokie Wellness	Admit	Admit	DKI
		VT 010971	Hilton Garden Inn - Hokie Invitational	DKI	DKI	DKI
		VT 010974	Virginia Tech Women's Basketball - Hokie Hardwood Club	DKI	DKI	DKI
		VT 010977	Hokie By Birth	DKI	Deny	DKI
		VT 010981	Kiss Me, I'm A Hokie	DKI	Deny	DKI
		VT 010982	Great Things Start With H - Hokie 4H	DKI	DKI	DKI
		VT 010984	Grey Storm - Hokie Camp	DKI	DKI	DKI
		VT 010987	Gilbert Linkous Elementary Hokie Night	DKI	Deny	DKI
		VT 010990	Virginia Tech Hokie Crew	DKI	Deny	DKI
		VT 010992	VT Hokie Basketball	DKI	Deny	DKI
		VT 010996	Never Divided Always A Hokie	DKI	Deny	DKI
		VT - no #	16th Annual Hokie Classic	DKI	DKI	DKI
		VT 011079	That's What It's All About - The Hokie Pokie	DKI	Deny	DKI
		VT 011080	VT Teachers	DKI	Deny	DKI
		VT - no #	I Only Kiss Hokie Fans	DKI	Deny	DKI
		VT - no #	I Only Kiss Hokie Fans	DKI	Deny	DKI
		VT 011170	Future VT Hokie - Color Me Hokies	DKI	Deny	DKI
		VT 011202	VT - Future VT Hokie	DKI	Deny	DKI
		VT 011257	Junior VT Hokie	DKI	Deny	DKI
		VT 011258	Daddy's #1 - Little Hokie	DKI	Deny	DKI

EXHIBIT A

RFA	Exhibit	Bates Nos.	Description	Admit VT authorized use of ®	Admit VT used ®	Admit VT licensee used ®
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EXHIBIT B

EXHIBIT B

RFA	Exhibit	Pages	Description	(i) authentic and genuine copies	(ii) made by VT in ordinary course of business	(iii) made by person in course of duties	(iv) kept in ordinary course of business	(v) used/relied upon in trans of bus.	(vi) made at/or near time of event described	(vii) made by or from information transmitted by a person with knowledge of facts	(viii) custodian has custody
4	A-2	2265-2266	Cover and inside page of Hokie Hokie Hokie Hy	Admit	Admit	Admit	Admit	Admit	DKI	Admit	Admit
		2267	Capaldo letter to HRE citing registration # for Hokies	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2268	2nd capaldo letter to HRE	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2623	Hokiesports.com page "What's a Hokie?"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2630-2669	2010 style guide	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2670	web page with LTA info (from 2010) -	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2671-2687	Boilerplate agreement used when with LRG --	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2700-2701	1994 Agreement with Hokie House	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2702-2703	1994 Agreement with Hokie Spokes	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2704-2705	2000 Agreement with Hokie Hair	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2706-2707	2000 Agreement with Hokie Beach	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit

EXHIBIT C

EXHIBIT C

RFA	Exhibit	Pages	Description	(i) Received copy in January 2011	(ii) in 2011, Hokie mark not authorized	(iii) Since receipt have taken no action to confirm use	(iv) Since receipt have taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
5	A-2	1865	Hokie Travel HQ	Admit	Admit	Deny	Admit	Admit	Admit
		1866	Hokie Memorabilia Sign	Admit	Deny	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1868-1869	Moe's Hokie Snack,	Admit	Admit	Deny	Admit	Admit	Admit
		1870	Hokie Hogie at sub place	Admit	Admit	Deny	Admit	Admit	Admit
		1871-1872	sign on front of building for GobblerGear -	Admit	Deny	N/A	N/A	N/A	N/A
		1874-1875	Hokie Planet	Admit	Admit	Deny	Admit	Admit	Admit
		1876	Campus Emporium	Admit	Deny	N/A	N/A	N/A	N/A
		1877-1888	Hokie Aquatics	Admit	Deny	Deny	Deny	Deny	Deny
		1879-1880	The Cellar - Hokie Ham & Cheese	Admit	Admit	Deny	Admit	Admit	Admit
		1881-1882	Alejandro's - El Big Hokie	Admit	Admit	Deny	Admit	Admit	Admit
		1883-1884	PK's --	Admit	Admit	Deny	Admit	Admit	Admit
		1885-1888	Hokie House - Hokie Nachos, Hokie Rueben, Hokie Burger (also using Hokie Bird)	Admit	Admit	Deny	Admit	Admit	Admit
		1889-1893	Kobe - Hokie Sauce, Hokie Chicken, Hokie Fish	Admit	Admit	Deny	Admit	Admit	Admit
		1894-1895	Poor Billy's - Hokie Roll (note Sushi place is now closed)	Admit	Admit	Deny	Admit	Admit	Admit
		1896-1897	Wikiteria - Hokie (turkey sandwich)	Admit	Admit	Deny	Admit	Admit	Admit
		1898-1901	El Gran Rodeo - Hokie Special	Admit	Admit	Deny	Admit	Admit	Admit
		1902-1909	Rams Head Tavern - Hokie Melt	Admit	Admit	Deny	Admit	Admit	Admit
		1910- 1913	Tiger Town Tavern - ACC Sandwiches - Hokie Melt	Admit	Admit	Deny	Admit	Admit	Admit
		1914	Sake House - Hokie Roll	Admit	Admit	Deny	Admit	Admit	Admit
		1915-1916	Ben Gui Sushi - Hokie (Trust me Rolls)	Admit	Admit	Deny	Admit	Admit	Admit
		1917-1918	Spry's BBQ - Hokie Burger	Admit	Admit	Deny	Admit	Admit	Admit
		1919-1920	American Tap Room - Hokie Burger	Admit	Admit	Deny	Admit	Admit	Admit
		1921	Leesburgers - Hokie Burger	Admit	Admit	Deny	Admit	Admit	Admit
		1922-1924	Kabuki - Hokie Roll	Admit	Admit	Deny	Admit	Admit	Admit
		1925-1928	Solstice Tavern - Hokie Croissant	Admit	Admit	Deny	Admit	Admit	Admit
		1929	Mascot Gallery - The Hokie Gallery ??	Admit	Admit	Deny	Admit	Admit	Admit
		1930-31	Home Search of the New River Valley - Hey Hokie Fans	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1932	The Hokie Realtors of Choice (Gillispie)	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.

EXHIBIT C

RFA	Exhibit	Pages	Description	(i) Received copy in January 2011	(ii) In 2011, Hokie mark not authorized	(iii) Since receipt have taken no action to confirm use	(iv) Since receipt have taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
		1933-1934	Gillispie - Go Hokies	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1935-1936	Repeat of 1932	Admit	Admit	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1937	Hokie Corner - Women's Basketball update	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Admit	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1938-1939	Gillespie - Go Hokies	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Admit	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1940&1942	HokieCash	Admit	Admit	Deny	Deny	Deny	Deny
		1941&1943	Firestone - Hokie car care package (appears to be part of Hokie Cash package)	Admit	Admit	Admit	Admit	Admit	DKI
		1944-1945	NRV Current cover page 12/15/10 and inside page containing ad from Best Wishes listinf "Hokie Gifts"	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Admit	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1946-1947	NRV Current 12/19/10	Admit	Deny	N/A	N/A	N/A	Deny
		1948-1951	Hokie Consulting	Admit	Admit	Deny	Admit	Admit	Admit
		1952	Smith Mountain Lake Wellness and Fitness - www.hokiedigitalcommunity.com	Admit	Admit	Deny	N/A	N/A	N/A
		1953-1954	Hokiediverdeals.com	Admit	Admit	Deny	Admit	Admit	Admit
		1955	Hokieflying.com - Hokie Flying Club	Admit	Admit	Deny	Admit	Admit	Admit

EXHIBIT C

RFA	Exhibit	Pages	Description	(i) Received copy in January 2011	(ii) In 2011, Hokie mark not authorized	(iii) Since receipt have taken no action to confirm use	(iv) Since receipt have taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
		1956-1957	Rich Tandler - Hokie Games - history of Virginia Tech Football	Admit	N/A	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		1958-1959	hokiegiftshop.com	Admit	DKI	Deny	Admit	Admit	Deny
		1960	Hokie Hard	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1961-1962	SnowshoeMountain - Hokie Haus (private home for rent now on VRBO)	Admit	Admit	Deny	Admit	Admit	Admit
		1963	hokiehelpers.com	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1964	HokieHideaway.com	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1965	Hokie Hill.com	Admit	Admit	Deny	Admit	Admit	Admit
		1966	Fiddler's Green bringthehokiehome.com	Admit	Admit	Deny	Admit	Admit	Admit
		1967	hokiehotels.com and hokiehotel.com forwards to talk2tanya.com	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1968-1970	Hokiehut.com	Admit	Admit	Deny	Admit	Admit	Admit
		1971	Hokiejerseys.com or jerseyfinestllc.com	Admit	DKN	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1972	myhokieland.com - handwritten note indicates this forwards to turmanlandsales.com	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1973	hokielistings.com (Fresno???)	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1974	hokieliving.com	Admit	Admit	Deny	Admit	Admit	Admit
		1975	riseofthehokienation.com	Admit	Deny	Deny	Deny	Deny	Deny
		1976	hokienest.com	Admit	Admit	Deny	Deny	Admit	Deny
		1977	youareahokienow.com	Admit	Deny	N/A	N/A	N/A	N/A
		1978-1980	hokieopen.com	Admit	N/A	Deny	Admit	Admit	N/A
		1981	hokiephotos.com forwards to replayphotos.com	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Deny
		1982	hokiepokiegifts.com	Admit	Admit	Deny	Admit	Admit	Admit

EXHIBIT C

RFA	Exhibit	Pages	Description	(i) Received copy in January 2011	(ii) in 2011, Hokie mark not authorized	(iii) Since receipt have taken no action to confirm use	(iv) Since receipt have taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
		1983	hokierentals.com (Fresno)	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1984	hokierenting.com (Hayward CA)	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1985	hokieretreat.com	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1986-1987	Hogsforhokies.org	Admit	Deny	Deny	Admit	Admit	Deny
		1988	blacksburghokie.com forwards to johnskelton.com	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1989	casahokie.com	Admit	Admit	Deny	Admit	Admit	Admit
		1991-1993	footballfanatics.com	Admit	Deny	N/A	N/A	N/A	Deny
		1994-1996	heyhokieblogspot.com	Admit	Deny	Admit	Admit	Admit	Deny
		1997	hungryhokie.com	Admit	Deny	Deny	Admit	Admit	Deny
		1998	shophokie.com	Admit	DNK	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		1999	smlhokie.net	Admit	Deny	Admit	Admit	Admit	Deny
		2000	trihokie.com	Admit	Admit	Deny	Admit	Admit	Admit
		2001-2009	hokiebabyclothes.com	Admit	Deny	Deny	Admit	Admit	Deny
		2010-2011	hokiebikes.com	Admit	Admit	Deny	Admit	Admit	Deny
		2012	techsideline.com	Admit	Deny	Deny	Admit	Admit	Deny
		2013	The Hokie Chiropractor (Tilley Chiropractic)	Admit	Admit	Deny	Admit	Admit	Admit
		2014	hokiecondos.com forwards to talk2tanya.com	Admit	Admit	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
		2015	hokiepokey.com	Admit	Admit	Deny	Admit	Admit	Admit
		2016	hokiepokebus.com	Admit	Deny	Deny	Admit	Admit	Deny
		2017-2018	richtandler.com ---- hokie games	Admit	N/A	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
		2531-2532	A Hokie Tradition since 1986	Admit	Deny	Deny	Admit	N/A	Deny

EXHIBIT D

EXHIBIT D

RFA	Exhibit	Pages	Description	(i) Received copy in February 2011	(ii) In 2011, Hokie mark not authorized	(iii) Since receipt have not taken no action to confirm use	(iv) Since receipt have not taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
6	B-2		1 Blacksburg Eye Associates -	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			2 Description of Hokie daylily	Admit	Deny	Deny	Admit	Admit	Deny
			3 hokiehaven.com	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			4-5 Sign near First Piedmont Corporation - Remember VT There is a Hokie Heaven	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			6 Main Auto Spa - Hokie Special	Admit	Admit	Deny	Admit	Admit	Admit
			7 Hokie Flat Bread	Admit	Admit	Admit	Admit	Admit	Admit
			8 Tailgatefever.com	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			9 theVTinn.com	Admit	DNK	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			10 Hokies for Hooters	Admit	Admit	Deny	Admit	Admit	Deny
			11-12 Fighting Gobbler Menu with Hokie Cheese Sticks	Admit	Admit	Deny	DKI	DKI	DKI

EXHIBIT E

EXHIBIT E

RFA	Exhibit	Pages	Description	(i) Received copy in February 2011	(ii) In 2011, Hokie mark not authorized	(iii) Since receipt have not taken no action to confirm use	(iv) Since receipt have not taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
7	D	30	Defendant's Third Supplemental Responses to Plaintiff's First Set of Discovery Requests	Admit	DNK	Deny	To the best of Applicant's knowledge, no use is being made of the mark HOKIE. Thus, no admission or denial is required.	To the best of Applicant's knowledge, no use is being made of the mark HOKIE. Thus, no admission or denial is required.	To the best of Applicant's knowledge, no use is being made of the mark HOKIE. Thus, no admission or denial is required.
11	D	3	Hokie Girl - Bull and Bones	Admit	DNK	Deny	To the best of Applicant's knowledge, no use is being made of the mark HOKIE. Thus, no admission or denial is required.	To the best of Applicant's knowledge, no use is being made of the mark HOKIE. Thus, no admission or denial is required.	To the best of Applicant's knowledge, no use is being made of the mark HOKIE. Thus, no admission or denial is required.

EXHIBIT F

EXHIBIT F

RFA	Exhibit	Pages	Description	(I) Received copy in April 2011	(II) In 2011, Hokie mark not authorized	(III) Since receipt have not taken no action to confirm use	(iv) Since receipt have not taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
8	E	1-50	Hokie Real Estate's Fourth Supplement to VPI&SU's First Set of Discovery Requests						
12	E	3-21	Amsoilhokie.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			angry hokies - android app chathokies.com	Admit	Admit	Deny	Admit	Admit	Admit
				Admit	Deny	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny
			dailyhokie.com	Admit	Deny	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny
			Go Hokies "theclassicbaby" Hokieboards.com	Admit	DKI	Deny	DKI	DKI	DKI
				Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokiecrafter.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokieforums.com	Admit	Deny	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny
			hokiepokerclub.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Hokies "sucreandspice"	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Hokies.info	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokies24060 (Desi Sowers)	Admit	Admit	Deny	Admit	Admit	Admit
			Hokies4hens.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Hokiesabroad.com	Admit	Deny	Deny	N/A	N/A	Deny

EXHIBIT F

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			Hokiesdaily.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokieselite.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokiesfootbaltickets.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Hokie Gobbler Pro	Admit	Admit	Deny	Admit	Admit	Admit
			Hokiesherald.com	Admit	DKI	Deny	Admit	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokie hottie; hokie girl	Admit	Admit	Deny	Deny	Deny	Deny
			Hokie Huddle	Admit	Deny	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			Hokiehurler.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Hokie Sluts; Hokie Bride; Go Hokies "Kathy 1910"	Admit	Admit	Deny	Deny	Deny	Deny
			Hokieshoos.com	Admit	Deny	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			Hokiesportsnow.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Hokiespringbreak.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Hokies Rule! Annaart 72	Admit	DKI	Deny	To the best of Applicant's knowledge, no reference to HOKIES mark. Thus, no admission or denial is required.	To the best of Applicant's knowledge, no reference to HOKIES mark. Thus, no admission or denial is required.	To the best of Applicant's knowledge, no reference to HOKIES mark. Thus, no admission or denial is required.
			Hokiestickets.com	Admit	Deny	Deny	Admit	Admit	Deny
			Hokiestrippers.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.

EXHIBIT F

RFA	Exhibit	Pages	Description	(i) Received copy in April 2011	(ii) In 2011, Hokie mark not authorized	(iii) Since receipt have not taken no action to confirm use	(iv) Since receipt have not taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
			Hokiesvsshoos.com	Admit	Deny	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			Hokietesxbooks.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokietickets.net	Admit	Admit	Deny	Admit	Admit	Admit
			hokietracks.net	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			hokievolleyball.com	Admit	Admit	Deny	Deny	N/A	Deny
			hungryhokie.com	Admit	DKI	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			Pawsitivelyhokies.com	Admit	DKI	Deny	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.	Site no longer active. Thus, no admission or denial is required.
			Virginia Hokies AAU; VA Hokies AAU; Vahokiesaa.com	Admit	Admit	Deny	Admit	Admit	DKI
			Taiwan Studio - VT Hokies Football app	Admit	Admit	Deny	Admit	Admit	Admit
			VT Hokies app - udroid games	Admit	DKI	Deny	DKI	DKI	DKI
			VTHokiefans.com	Admit	Deny	Deny	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny
			Genwi LLC VT Hokie Fans - app	Admit	Admit	Deny	Admit	Admit	Admit
			VT Hokies "virginiadareboutique"	Admit	DKI	Deny	No reference to HOKIES mark. Thus, no admission or denial is required.	No reference to HOKIES mark. Thus, no admission or denial is required.	No reference to HOKIES mark. Thus, no admission or denial is required.
			Yayhokies.com	Admit	DKI	Deny	DKI	DKI	DKI

EXHIBIT G

EXHIBIT G

RFA	Exhibit	Pages	Description	(i) Received copy in January 2011	(ii) In 2011, Hokie mark not authorized	(iii) Since receipt have not taken no action to confirm use	(iv) Since receipt have not taken any action to stop use	(v) since receipt taken no action to have user obtain a	(vi) use of Hokie not presently authorized by VT	Comments
9	A-1	5-36	Hokie Travel Headquarters - Martin Travel							See response to #5
			Hokie Memorabilia - Original Frameworks							See response to #5
			Hokie Lightning; Hokie Snack - Moe's							See response to #5
			Hokie Hoogie - Market Place							See response to #5
			Your Hometown Hokie Headquarters - Gobler Gear							See response to #5
			Hokie Pokie Charter Bus Lines							Hokiepokiebus.com - See response to #5.
			Hokie Planet Where Hokie Fans Shop! We have Hokie Spirit!; Hokieplanet.com							See Response to #5
			Your online Hokie Shop, etc...	Admit	Deny	Deny	N/A	N/A	Deny	
			N2Oties							See response to #5 Hokie Aquatics
			Hokie Ham and Cheese							See response #5 The Cellar
			Various Hokie House entrees							See response to #5
			Hokie Roll Special							Poor Billy's - See response #5
			Hokie							Market Wikiteria - See response #5
			Hokie Special							El Gran Rodeo- See response #5
			Hokie Melt							Ramshead Tavern- See response #5
			The Hokie							Tiger Town Tavern- See response #5
			Hokie Roll							Sake House- See response #5
			Hokie Burger							Spry's BBQ- See response #5
			Hokie Burger							America's Tap Room- See response #5
			Hokie Burger	Admit	Admit	Deny	Admit	Admit		Sparky's
			Hokie Roll							Kabuki - - See response #5
			Hokie Croissant							Solstice Tavern - - See response #5
			Hokie Gallery	Admit	DNK	Deny	DKI	DKI	DKI	
			Hokie Realtors of Choice , Go Hokies							Kerry Gillispie - - See response #5
			Hokie Corner	Admit	DNK	Deny	DKI	DKI	DKI	
			HokieCash							licensed - See response to #5
			Hokie Car Care Package							Firestone - See response to #5
			Hokie Consulting; Hokie Consultants							See response to #5
			hokiedigitalcommunity.com							See response to #5
			hokiediverdeals.com							See response to #5
			Hokie Flying Club; Hokieflying.com							See response to #5
			HokieGames.com							See response to #5
			Hokiegiftshop.com							See response to #5
			Hokie Hard - pipelinebaseball.com							See response to #5
			Hokie Haus Cabins							See response to #5
			HokieHelpers.com							See response to #5
			HokieHideaway.com							See response to #5
			BringteHokieHome.com							See response to #5
			Hokiehotels.com; hokiehotel.com; hokiecondos.com							See response to #5
			HokieHut.com							See response to #5
			HokieJerseys.com or jerseyfinestllc.com							See response to #5
			myhokieand.com							See response to #5
			hokielistings.com							See response to #5
			hokierentals.com; hokierenting.com; hokieliving.com; hokie living							See response to #5, Bates Nos. 1974, 1984 and 1983
			riseofthehokienation.com							See response to #5
			hokienest.com							See response to #5
			Youreahokienow - Miriam Rich							See response to #5
			hokiephotos.com forwards to replayphotos.com							See response to #5
			hokiepokiegifts.com							See response to #5
			hokieretreat.com							See response to #5
			hogs4hokies.com							See response to #5, Bates Nos. 1986-1987
			blacksburghokie.com forwards to johnskelton.com							See response to #5
			cssahokie.com							See response to #5
			Virgla Tech Hokies Shop							See response to #5
			heyhokieblogspot.com							See response to #5
			hungryhokie.com							See response to #5
			Shop Hokie							See response to #5
			smihokie.net							See response to #5
			trihokieimages or trihokie.com							See response to #5
			hokiebabyclothes.com							See response to #5
			hokiebikes.com							See response to #5
			hokiecentral.com	Admit	N/A	Admit	Admit	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			Thehokiechiropractor.com							See response to #5
			hokeypokey.com							See response to #5

EXHIBIT H

EXHIBIT H

RFA	Exhibit	Pages	Description	(i) Received copy in February 2011	(ii) In 2011, Hokie mark not authorized	(iii) Since receipt have not taken no action to confirm use	(iv) Since receipt have not taken any action to stop use	(v) since receipt taken no action to have user obtain a license	(vi) use of Hokie not presently authorized by VT
10	B-1	2-21	Air Hokie, LLC	Admit	Admit	Deny	Deny	Deny	Deny
			Hokies						
			Hokie Honda; Duncan's Hokie Honda	Admit	Admit	Deny	Deny	Deny	Admit
			Emerald Hokie	Admit	Admit	Deny	Admit	Admit	Admit
			Golden Hokies, LLC	Admit	DKI	Deny	Admit	Admit	DKI
			Hokie Soccer Academy	Admit	DKI	Deny	DKI	DKI	DKI
			Hokie Alrco	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Associates, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Bear Partners	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Condo, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie FC, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Haven, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Hill Road, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Hoo, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Hospitality, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie House, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Investments, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Land Holdings, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Mining Company	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Properties, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Towers, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Rentals, LLC - Newport News	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie Rentals, LLC - Glen Allen	Admit	Admit	Deny	Admit	Admit	Admit
10			HWH Hokies, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			Iguana Hokies, LLC	Admit	Admit	Deny	Admit	Admit	Admit
			HOKIETUDE (Know Play Apparel, Inc)	Admit	DKI	Deny	DKI	DKI	DKI
			Lynchburg Hokie Club, Inc	Admit	Deny	Deny	N/A	N/A	Deny
			Hokie Special	Admit	Admit	Deny	Admit	Admit	Admit
			Hokie	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			Richmond Hokie Club	Admit	Deny	Deny	N/A	N/A	Deny
			Roanoke Valley Hokie Club	Admit	Deny	Deny	N/A	N/A	Deny
			Hokies for Hooters	Admit	Admit	Deny	N/A	N/A	Deny
			Tidewater Hokie Club	Admit	Deny	Deny	N/A	N/A	Deny
			Hokie Update - TF Ventures, LLC	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.
			Hokie Colored Daylilly	Admit	Deny	Deny	Admit	Admit	Deny
			Hokie Haven, LLC	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.	Deny	Admit	Admit	Given the fair use nature of the use, no authorization is required. Therefore, Applicant neither admits nor denies this Request.

EXHIBIT 9

GENERAL OBJECTIONS

1. The present responses are based upon and reflect only Applicant's knowledge, information and belief formed after reasonable investigation to determine responsive information. These responses may be subject to change, correction or amplification on the basis of further facts, information or circumstances that may come to Applicant's attention. In addition, Applicant reserves the right to assert any additional or supplemental objections.

2. Applicant objects to each and every discovery request to the extent that it is inconsistent with or attempts to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Rules of Practice in Trademark cases, 37 C.F.R. § 2.1, *et seq.* ("Trademark Rules").

3. Applicant objects to the "Definitions and Instructions" as set forth in Opposer's First Set of Discovery Requests to the extent that they are inconsistent with or attempt to impose obligations beyond, in addition to, or different from those imposed by the Federal Rules of Civil Procedure and the Trademark Rules. Applicant further objects to any definitions in these discovery requests to the extent that they purport to alter the plain meaning and/or scope of any specific discovery requests on the ground that such alteration renders the discovery requests vague, ambiguous, unduly broad and/or uncertain.

4. Applicant objects to Opposer's definition of the term "HOKIE Mark" to the extent that it includes marks other than "HOKIE."

5. Applicant objects to each and every discovery request to the extent that it seeks information protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege, immunity or doctrine, and specifically reserves the right to

withhold such information from Opposer. Nothing contained in these responses is intended to be, or in any way constitutes, a waiver of any such applicable privilege, immunity or doctrine.

6. Applicant objects to Opposer's discovery requests to the extent that they seek information that is not within Applicant's possession or knowledge, or that Applicant could not determine after conducting a reasonable investigation. In accordance with the requirements of the Federal Rules of Civil Procedure and the Trademark Rules, Applicant's responses are limited to information in their possession or knowledge.

7. Applicant objects to each and every discovery requests to the extent it seeks information that already is in Opposer's possession or knowledge, or that otherwise is publicly available to Opposer.

8. Applicant objects to Opposer's discovery requests to the extent that they are repetitive and duplicative of one another.

RESPONSES

REQUEST FOR ADMISSION NO. 1:

With respect to each document in the PDF file served with these requests entitled "Exhibit A to Opposer's Fourth Set of Discovery Requests.pdf" admit the following:

- (i) The document is an authentic and genuine copy of the original document.
- (ii) The document was made by VPI&SU in the regular course of business.
- (iii) The document was made by a person in the course of his or her job duties, and who had a duty to make a true record.
- (iv) The document is kept by VPI&SU in the ordinary course of business.
- (v) The document is used and relied upon by VPI&SU in the transaction of business.
- (vi) The document was made at or near the time of the events described therein.

(vii) The document was made by, or from information transmitted by, a person with knowledge of the facts contained therein.

(viii) The custodian of the document in fact has custody of it.

(ix) VPI&SU previously produced the document to a third party pursuant to a discovery request..

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(xi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections, and the specific objections above, see Exhibit A annexed hereto for Applicant's Supplemental Responses.

REQUEST FOR ADMISSION NO. 2:

With respect to each document among the copies of issues of the VPI&SU student newspaper and copies of editions of the VPI&SU yearbook served together with Opposer's Responses to Applicant's First Request for Production of Documents and Things (dated September 30, 2013), admit the following:

- (i) The document is an authentic and genuine copy of the original document.
- (ii) The document was made by VPI&SU in the regular course of business.
- (iii) The document was made by a person in the course of his or her job duties, and who had a duty to make a true record.
- (iv) The document is kept by VPI&SU in the ordinary course of business.
- (v) The document is used and relied upon by VPI&SU in the transaction of business.
- (vi) The document was made at or near the time of the events described therein.

(vii) The document was made by, or from information transmitted by, a person with knowledge of the facts contained therein.

(viii) The custodian of the document in fact has custody of it.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

(i) Subject to and without waiving the General Objections and the specific objections above, Applicant admits that the copies of the pertinent issues of the VPI&SU student newspaper and copies of the pertinent editions of the VPI&SU Bugle Yearbook appear to be authentic and genuine.

(ii) Subject to and without waiving the General Objections and the specific objections above, Applicant admits that the copies of the pertinent issues of the VPI&SU student newspaper and copies of the pertinent editions of the VPI&SU Bugle Yearbook were created and published by student organizations under the auspices of VPI&SU, but denies this Request in all other respects.

(iii) Subject to and without waiving the General Objections and the specific objections above, Applicant admits that the copies of the pertinent issues of the VPI&SU student newspaper and copies of the pertinent editions of the VPI&SU Bugle Yearbook were created and published by student organizations under the auspices of VPI&SU, but denies that the newspaper issues

and Bugle Yearbooks were made by an employee of VPI&SU in the course of his or her job duties, and who had a duty to make a true record.

(iv) Subject to and without waiving the General Objections and the specific objections above, Applicant admits this Request.

(v) Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

(vi) Subject to and without waiving the General Objections and the specific objections above, Applicant admits that the copies of the pertinent issues of the VPI&SU student newspaper and copies of the pertinent editions of the VPI&SU Bugle Yearbook were made at or near the time of the events described therein.

(vii) Subject to and without waiving the General Objections and the specific objections above, Applicant lacks knowledge or information sufficient to be able to either admit or deny this Request for Admission notwithstanding having made a reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny said Request for Admission.

(viii) Subject to and without waiving the General Objections and the specific objections above, Applicant admits that the pertinent copies of the VPI&SU student newspaper and pertinent copies of the VPI&SU Bugle Yearbook are maintained in the University's library on microfiche.

REQUEST FOR ADMISSION NO. 3:

With respect to the document at pages HOKIE-201 1-01-21-002269 through HOKIE-2011-01-21-002269 of the PDF file served with Opposer's Third Set of Discovery Requests requests entitled "Exhibit A-2 to Opposer's Third Set of Discovery Requests.pdf," admit that VPI&SU received a copy of the document in March or April 2010.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Request for Admission on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant denies this Request.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the General Objections and the specific objections above, Applicant supplements its response admitting this Request.

INTERROGATORY

INTERROGATORY NO. 1

Describe in detail the reasons for any denial of any of the above requests for admission.

OBJECTION:

Applicant specifically incorporates and repeats by reference each of its General Objections. Applicant further objects to this Interrogatory on the basis that it is overly broad, unduly burdensome and harassing in that to respond to this Request, Applicant is required to

review hundreds of pages of documents produced in an unrelated litigation, *Virginia Polytechnic Institute and State University v. Hokie Real Estate, Inc.*, 7-10-CV-00466 (W.D. Va. 2010), and is not likely to lead to the discovery of admissible evidence. Furthermore, Applicant objects to this Request because the burden to Applicant to respond outweighs the likely benefit, considering the needs of the case, the nature of the controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

SUPPLEMENTAL OBJECTION:

Applicant further objects to Interrogatory No. 1 on the ground that responding to this Interrogatory would require Applicant to, in essence, respond to more than seventy-five interrogatories, including subparts. Opposer has served three Requests for Admission, two of which have between eight to nine separate requests for admission that pertain to many hundreds of documents. This Interrogatory calls for Applicant to describe in detail the reasons for its denial of any of the Requests for Admission. Given the number of Requests for Admission, including subparts, the many hundreds of documents relating thereto, and the numerous denials interposed by Applicant in response to the Requests for Admission, responding to this Interrogatory and Interrogatory No. 1 from Opposer's Third Set of Discovery Requests would

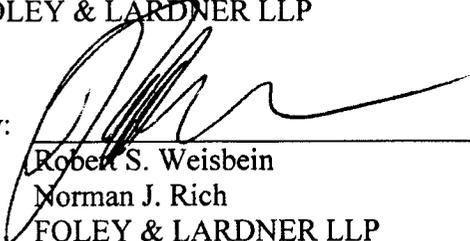
exceed the seventy-five interrogatory limit imposed by Rule 405.3 of the Trademark Manual of Procedure. Consequently, Applicant need not respond to this Interrogatory.

Dated: New York, New York
September 18, 2015

Respectfully submitted,

FOLEY & LARDNER LLP

By:



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FOLEY & LARDNER LLP
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(212) 682-7474
(212) 687-2329

*Attorneys for Applicant Virginia
Polytechnic Institute and State University*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY'S RESPONSES TO OPPOSER HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC'S FOURTH DISCOVERY REQUESTS, was served by first class mail on this 18th day of September, 2015, to Opposer's correspondent of record as follows:

Keith Finch, Esq.
The Creekmore Law Firm PC
318 North Main Street
Blacksburg, VA 24060


WILLIAM S. WALKER, JR.

EXHIBIT A

EXHIBIT A

RFA	Exhibit	Pages	Description	(i) authentic copy	(ii) made by VT	(iii) Made in course of duties	(iv) kept by VT in course of bus	(v) used and relied upon	(vi) made at or near time described	(vii) person with knowledge of facts	(viii) custodian has custody	(ix) VT previously produced to 3rd party
1	a	459-471	Baden Sports, Inc license	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		1727-1738	Duncan Automotive license	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2081-2092	Fossil Inc - addendum & orig license	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2405-2421	Harbour Graphics - license	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2501-2512	Hey Wow Productions (Miriam Rich) - add & orig license	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		2793-2804	Jerseys Finest - add & license	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		3896-3904	Campus Emporium - add & license	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		6226	Addendum to VT Services agreement	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16096-16098	Letter to Will Student re: stop using hokiecentral.com & related emails	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		15916	Hyatt memo re: banking proposal	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16467	listing of businesses using Hokie	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16118-16119	10/2000 email from Phil Bushanan concerning url use	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16128-16132	Rosenbaum letter re fan sites and pages from hokieupdate.com	Admit	Deny	Deny	Admit	Admit	Admit	DKI	Admit	Admit
		two unnumbered pages	old licensing brochure	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		15466-15525	1997 Letter transmitting Sony Interactive Licensing Agreement and related documents between LRG and VT	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		15774-15577	Random pages from "The Forum"	DKI	Deny	Deny	Admit	DKI	DKI	DKI	DKI	Admit
		15527-15529	letter and accounting voucher for 1997 compliance review	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		15550-15555	Compliance review of Legends Enterprises - 1997	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		15708-15709	1995 Amended Royalty report Image Wear	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		15850-15857	1996 lettersto various licensees re audit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16192-16193	1999 memo White to Hincker - Internet recommendations	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16206-16207	2000 email regarding Hokies for Allen	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16230-16237	Listing of URLs	DKI	DKI	DKI	DKI	DKI	DKI	DKI	DKI	Admit
		15932-15933	Letters from Athletics granting NC and Texas Youth Football Leagues approval to use Hokies	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16629-16632	emails regarding Football Fanatics	Admit	Deny	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16519-16526	Notes re:protecting the marks	Admit	DKI	DKI	Admit	Admit	DKI	DKI	Admit	Admit
		16532-16536	1993 Trademark meeting notes	Admit	DKI	DKI	Admit	Admit	DKI	DKI	Admit	Admit
		16540-16542	urls using Hokie	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16543	1993 Trademark meeting notes	Admit	DKI	DKI	Admit	Admit	DKI	DKI	Admit	Admit
		16697-16698	Two copies of 2000 trademark meeting summary notes	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16748-16754	url infringement letters	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16755-16774	url infringement letters list and additional urls	Admit	DKI	DKI	Admit	Admit	DKI	DKI	Admit	Admit
		17099-17104	letters to Hokie House and Hokie Spokes2001	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18090-18092	notes from Rebecca Lalli 1999 re: marketing	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		16857-16858	Brochure about HokieBall	DKI	Deny	DKI	Deny	Deny	DKI	DKI	DKI	Admit
		16906-16907	Hokie Hockey Express	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		14739-14741	Compliance review CC Creations	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18578	2010 emails Hokie Wine	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18540-18543	2007 emails Collegiate Inn "Hokie Spirit Lives Here"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18719-18726	emails with HokieSingles.com with listing of URLs using Hokie or Hokies	Admit	Deny	DKI	Admit	DKI	DKI	DKI	DKI	Admit
		18115-18116	College republicans and democrats - can't use marks 2010	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18446	Hokie Homes/Hokie Stone	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18563-18564	Emails re: ICANN's resolution policy - Jackson recommends not pursuing virginiatech.com	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18572-18564	2007 emails re: Hokie Restaurant idea of Locke's	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18138-18139	2010 Request to use Hokie Express - White responds try VTExpress	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit

EXHIBIT A

RFA	Exhibit	Pages	Description	(i) authentic copy	(ii) made by VT	(iii) Made in course of duties	(iv) kept by VT in course of bus	(v) used and relied upon	(vi) made at or near time described	(vii) person with knowledge of facts	(viii) custodian has custody	(ix) VT previously produced to 3rd party
		18627-18629	Hokie Hanky correspondence 2005 Warren Olsen	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18630-18631	Hokie-Sports.com Infringement email - Olsen 2002	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18229-18236	Hokie Homes Correspondence	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18140-18141	Hokie Nest vs VT Nest	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18643	2006 HokieMania letter	DKI	Deny	Deny	Admit	Admit	DKI	DKI	DKI	Admit
		18764-18766	2009 Disapproval HokieTron t-shirts	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18467	appendix 1 Licensee information sheet	DKI	Admit	Admit	Admit	Admit	DKI	Admit	Admit	Admit
		18484-18509	Licensing Procedures manual	Admit	Admit	Admit	Admit	Admit	DKI	Admit	Admit	Admit
		18767-18775	FY 09-10 strategic plan; FY 10-11 Strategic Plan	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18522-18538	Generic licensing agreement	Admit	Admit	Admit	Admit	Admit	DKI	Admit	Admit	Admit
		18541	2007 Collegiate Inn	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18549-18550	List of Hokie xxxx with agreements - indicates Hokie Honda said they would not use. 2002	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		19712-18713	FireHouse Pizza infringement - magnets	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18746	Hokies for Hooters	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		19033-19050	1998 Taco Bell artwork "Use TM with all Marks"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		18856-18863	Big East Participation Agreement 1996	Admit	Deny	Deny	Admit	Admit	Admit	Admit	Admit	Admit
		18857-19958	Dudding email to LRG TM vs r for Hokie vs Hokies	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		19971-19972	2010 TM vs R for Hokie vs Hokies	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20365-20371	1996 Big East Participation Agreement	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		19999-20000	email to student re: RSOs only can use marks	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20006-20007	hold up on h2okies shirt 2010	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20022-20026	2010 emails with Sarah Marshall re: ads re: Learning Football with the HokieBird	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20046-20049	Blacksburg Partnership "Hokie Hoedown"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20050	2007 Bumper sticker "OBX Hokie" now want bumper sticker for Hokie Hope	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20079-20081	Bookstore request to sell Hokie Stone in lucite - 2007	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20263-20264	1989 letter to retailers and mgrs about licensing program	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20316-20318	1989 memo to deans, directors & department heads with licensing brochure	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20157-20159	2010 email Hokie Nation TM needed	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20175-20177	2010 email with student about TMs	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20209-20210	Hokie Burger 2007 emails	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20218	2007 Hokie Chips - Utz	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20244	2007 email Hokie Festival - Alumni Association	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20538-20540	2010 adding items to license - ornaments	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20463--20465	2010 emails about various urls	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20475-20477	2010 trademark Hokie Zone	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20616	Gumby's using "Let's Go Hokies!" in an ad	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20630	We do not waive royalties if not affiliated with a group	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20651-20652	2010 HokieBikes.com	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20657-20658	2010 email	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20670	2010 email to Steve Mouras re: use of Hokie by the BT	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20692-20694	2007 disapprove use of fighting gobbler	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20755-20758	artwork approval requests	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20500-20501	Hokie Dokie - licensing process 2010	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20780-20782	one time approval for hokiebird cake	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20783-20800	autonomous vehicle adding VT to shirts	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20801-20806	licensee use of logo on website and other licensing issues	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20824	duplicate about not waiving royalties for non-student group	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20847-20849	University not using Hokie Spirit for the Hokie daylily	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20894	H2Okies artwork	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit

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		20898-20900	Correspondence with ISP Sports re: use of Hokies	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20920-20921	HokieBikes.com 2010 email to call them and tell them to remove bike since they are not licensed	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20940-20941	2009Blacksburg Eye - Custom Oakley	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		21203-21206	1992 Correspondence 11 West - implementing licensing program	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22108, et all (not sequential)	Various artwork through LRG's system or with "Licensor Notes" typed in	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22709-22710	2008Email re: royalty exemptions. References Hokie House not being exempt from royalties	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22718-22720	email re: wsls coverage - Armored Hokie	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22739-22740	Huff Ford and VT golf cart - is it licensed?	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22741	2009 email from Locke White re: Hokie Water	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22758-22759	Blacksburg Eye Associates ad with the Hokie Bird in it	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22762-22763	Hokie Garden - Locke's proposal to Lowe's	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22816	2009 email to Lock re: naming a farm Hokie Hills. Locke says no	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22819-22820	Lock approves Kroger using "Home of the Hokies" because they're a "Hokie Retailer"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22856-22858	emails with Gobbler Gear referreing using logos on signage and websites	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22645	Locke's pitch to name the HokieBird	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22662-22663	Lunchpaiddefense - approve; no refer to Foster	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22666-22667	2009 Company wants to use hokiesrock.com to start shirt business. Lock's email tells Sharon we can't stop him.	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22684-22685	Duplicate of Hokie Nation question	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23355-23357	emails regarding listing on ebay involving VT tragedy - Locke stating we can do nothing about it	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23513-23515	2010 emails re Nike products in bookstore bearing gobbler	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23556-23557	2008 email Invent the Future	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23563-23564	2003 emails re site names not likely to be dilution	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23568-23569	Bookstore - not waive royalties for Hokie Stone	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23580-23582	2009 Mini Helmet being turned into a bong. Discussion about confiscation	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23642-23643	2010 email "Gobbler gets a TM"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23708-23709	2007 email "all our marks are registered"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23236-23238	Hokie Fan documentary	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		23251	Hokie Hooley - not to market until spring	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25212-25251	Multimedia Rights Package contract	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24548	Locke email re: use of logos by retailers. Makes reference to TechBookstore and "I think I will say We allowed it"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24551	Larry's response to above email 2004. need policy	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24552	student use of Hokie in website - didn't know any better	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24554	Locke to Larry - list of websites - 99% inactive or fan sites. Sites Warren's position that non-targets	Admit	Admit	Admit	Admit	Admit	Admit	DKI	Admit	Admit
		24650-24651	2007 emails Hokie Retailer contracts - automatic renewals	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24418-22419	2010 email to LRG remove HokieBird with the R	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24431	2009 email to Locke from Sharon - here is what I found in the back in those brown folders - i.e., the registration files	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit

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		24464-24466	2008 Hokietalk can continue but can't use marks on the site	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24497	2008 email from CB Townside - Hokie in name	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24685-24688	Sauce recall	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24703-24706	Web page "what is a hokie"	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24826-24827	2009 News Release O.M. Stull recognized for creating the Hokie Nation	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24908-24912	2008 HokieMania artwork	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		24913-24923	various artwork	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25006-25007	Hokie artwork 2008	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25011-25013	2009 hokie artwork	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25067-25069	2009 hokie artwork	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25084-25085	2009 hokie artwork	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25099	hokies chopsticks	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25133-25134	Lunchbox with VT - t-shirt 2008	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		25153-25155	2008 student print center	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		19014-19018	1999 Participation agreement - national championship	Admit	Deny	DKI	Admit	Admit	Admit	DKI	Admit	Admit
		18976-18977	Hokie Girls Buttered Biscuits 2008	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		20466-20470	Use of logos in ads - yes on products; varies depending on investment	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit
		22418-21813 (not sequential)	Several duplicate pieces of artwork with licensor comments	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit	Admit